THE CENTENNIAL HISTORY OF THE INDIANA GENERAL ASSEMBLY, 1816-1978

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THE CENTENNIAL HISTORY OF THE INDIANA GENERAL ASSEMBLY, 1816-1978

by

JUSTIN E. WALSH

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of the Indiana General Assembly

in cooperation with
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PREFACE

The history of any legislature is a story of people, the actions and events they shaped and those that shaped their public service. This volume is a written record of the Indiana legislature, the first such history of any legislature in the nation.

In 1975, Senator Phillip E. Gutman, president *pro tempore* of the state Senate, appointed me to chair a bipartisan Interim Study Committee to recommend appropriate ways to commemorate the 100th session of the Indiana General Assembly to be held in 1977-1978. At its organizational meeting the committee, composed of legislators from both houses, stated the primary question before it as: "Should the General Assembly sponsor the writing of a history of the General Assembly?"

During the course of several meetings, the committee deliberated this question in depth while hearing from many experts on the matter. It became apparent that there might be three approaches to the compilation of such a history: a comprehensive, professional study encompassing a complete, detailed history; a cursory, journalistic study, competent but non-scholarly; or a superficial, public relations statement of the "history" of the General Assembly. The committee decided by unanimous vote to recommend that if a history were undertaken, it be a comprehensive, professional study.

At subsequent meetings, the committee agreed that there should be but one author, working full time, with a support staff of three to four people. At its final meeting the committee approved, by a one vote plurality, a proposal that a Centennial History Bill be drafted for consideration by the 1976 legislature. The legislature adopted the proposal and, following the session, Senator Gutman appointed me to chair the Select Committee to supervise the project.

Ten years later, the project is complete. It could not have happened without the support of legislators in both houses, a substantial grant from the Lilly Endowment at a critical time in the project's life, and the steady support and faith of members of the Select Committee. The project evolved to encompass two legislative biographical volumes, published earlier, as well as this narrative history.

Each member of the Select Committee hopes this book will increase knowledge of the legislature, its people, processes, and procedures. We want it read by ordinary citizens as well as students and scholars. Further, we hope it will be used as a source for future studies of state governments.

The legislative branch was created constitutionally to promote the general welfare of the state's citizens, to protect their rights, and to preserve our democratic system of government. This book is about the events and people who have shaped that branch of government in Indiana. The Select Committee presents it to the citizens and their legislative representatives who made it possible.

Robert D. Garton
Chairman

Select Committee on the Centennial History
of the Indiana General Assembly

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ABBREVIATIONS

BD 1, 2	*A Biographical Directory of the Indiana General Assembly* (2 vols., Indianapolis, 1980, 1984), Vol. 1, *1816-1899*, Vol. 2, *1901-1984*
Centennial History	Files, Centennial History of the Indiana General Assembly, Archives Division, Commission on Public Records, Indiana State Library, Indianapolis
English	William H. English Collection, Indiana Historical Society Library, Indianapolis
IHB	*Indiana History Bulletin*
IHSL	Indiana Historical Society Library, Indianapolis
ILJ	*Indiana Law Journal*
IMH	*Indiana Magazine of History*
ISL	Indiana State Library, Indianapolis
Legislator	English Legislator Collection, Indiana Historical Society Library, Indianapolis
(s.s.)	special session

INTRODUCTION AND ACKNOWLEDGMENTS

On October 6, 1976, I received my first letter from Senator Robert D. Garton, chairman of the Select Committee on the Centennial History of the Indiana General Assembly. "By now, I assume you have heard . . . that the advisory council selected another individual for the legislative historian's position," Garton wrote. "You were a strong second choice . . . ," he added. Today, ten years later, I am nonetheless pleased to finish this *Centennial History of the Indiana General Assembly, 1816-1978* for the Select Committee. The work completes the assignment given to me in 1979 to prepare a comprehensive history of the first 100 sessions of the state legislature.

The book was written because the 99th Indiana General Assembly authorized it by passing Public Law No. 151, *Laws* of 1976. An interim study committee had explored the question in 1975 and devised the legislation which became law. The act created a bipartisan Select Committee of senators and representatives to oversee the project and employ an author and assistants. The law also provided for a twelve-member statewide advisory council, composed of academicians and heads of historical agencies, to assist the Select Committee in the appointment of an author and to advise on other relevant matters. The chairman of the Select Committee, designated to serve as long as he remained a member of the legislature, also served as chairman of the advisory council. Notice of the search for an author was published in June, 1976, and ninety-five historians or political scientists, including myself, applied for the position. On September 5, I became one of six applicants that the advisory council chose to interview.

At this initial interview the advisory council spelled out clearly what the position entailed and I responded as positively and as realistically as I could. Two overriding factors emerged during the interview: one, the Centennial History law expired by limitation on November 1, 1981, thereby allotting but five years for the completion of the project; two, a multi-volume narrative was contemplated, as well as a separate directory giving basic biographical information for each of the more than 6,000 persons who have served Indiana as legislators since 1816. Thus, in addition to writing a history of the legislature, the historian-director would also supervise the compilation of biographical sketches for separate publication. At the interview I said that the preparation of a directory seemed logical because the information would have to be compiled for the narrative anyway, but that whoever was chosen to direct the project would need adequate staff so he or she could give priority to writing the history. I also stated my belief that the council should select an author who could master 168 years of complex history rapidly and just as rapidly reduce it to clear, precise, accurate, and readable prose. I stressed that I believed the job could be done. Although the council was divided on how many volumes were expected, I said that whether one or several, I knew how I would allot the time. During the first year, assistants should begin on the directory while the author grounded himself in Indiana history and prepared a detailed outline for the history of the legislature. The subject matter would be divided into four eras, each encompassing almost a half century, and one year would be allotted to writing the history of each era. If

work on the biographical sketches proceeded apace (and it would have to if the author were to remain on schedule), the project could be completed on time.

The following month I received Senator Garton's letter. Soon, I forgot about the history of the Indiana General Assembly. Then, in April, 1979, I received a telephone call from John A. Bremer, counsel for the Select Committee, who informed me that a change in direction was pending. He asked if I were still available and interested in directing the Centennial History project. I replied that I was.

A quorum of the Select Committee joined the advisory council on May 4 when I appeared before it for the second time. I repeated basically what I had said two and one-half years earlier. Most of the questions came from legislators. Would I meet deadlines? Was I willing to devote myself entirely to the project? Could I supervise and direct personnel? The lawmakers' major concern was that after thirty months they had not seen a satisfactory draft of a single chapter for the narrative history. I assured them that my first priority would be to produce a chapter on the early years to prove the job could be done. Off the record, I was told the project might be extended to compensate for time already lost. I sensed that, while the council possessed some advisory influence, final authority rested with the eight legislators who constituted the Select Committee. They wanted tangible evidence before the 1980 session convened that the history could be written and, unless they received such evidence, the project would probably be aborted. After I was excused, the council and legislative committee voted unanimously to offer me the position. I accepted immediately and two weeks later, on May 25, 1979, I arrived at the Indiana State Library as the second director of the Centennial History of the Indiana General Assembly.

Plan, Size, and Scope

This book is the end product of my second interview. It renders an account of the Indiana legislature from the day the 1st General Assembly convened at Corydon on November 4, 1816, to the day that the 100th General Assembly adjourned *sine die* at Indianapolis on March 4, 1978. The book divides the history of the legislature into five chronological sequences, with Parts I through IV consisting of four chapters each. Part I, The Pioneer Period, 1816 to 1850, covers the first thirty-five general assemblies that convened annually under the first Constitution. Part II, The Middle Period, 1850 to 1890, covers the 36th through 56th general assemblies. These were the first legislatures to convene biennially under the second Constitution; they met in twenty regular sessions and ten special sessions between 1851 and 1889. (The special session of 1861 was mistakenly numbered the 42nd General Assembly; in actuality it was a special session of the 41st legislature.) Part III, The Early Modern Period, 1890 to 1930, covers the 57th through 76th general assemblies. These legislatures met biennially in twenty regular and four special sessions between 1891 and to 1929. Part IV, The Recent Modern Period, 1930 to 1970, covers the 77th through 96th general assemblies, the last Indiana legislatures to convene biennially. They met in twenty regular sessions between 1931 and 1969 and were called into special session on nine occa-

sions. Part V, The Contemporary Era, encompasses the years since 1970 and concentrates on the 97th through 100th general assemblies.

The chapter titles in Parts I through IV are the same for each section because they cover the same thematic material for each particular era. Thus, Chapters 1, 5, 9, and 13 are entitled "The Setting and the Major Issues." Each contains a brief overview of the state during the period, and then focuses on the issues that dominated legislative deliberations. Chapters 2, 6, 10, and 14 are entitled "The Constitutional and Political Context." For each era they cover constitutional questions, federal-state relationships, legislative-executive conflicts, apportionments, congressional districting, and the development of political parties. Chapters 3, 7, 11, and 15 are entitled "The Legislative Process." These chapters cover running for office, legislative leadership, officers, rules, committees, the laws (with emphasis on taxation, revenue, and budgeting), and legislative miscellany. Chapters 4, 8, 12, and 16 are entitled "The Legislators." These chapters present a collective portrait of those who served during the era, featuring a cross section of typical and atypical lawmakers, legislative lore, lobbyists, and life in the capital city during sessions. Chapter 17, entitled "A Post-Rural Legislature," focuses on the 1970s and concludes the work. Although the volume formally ends with the centennial session of the General Assembly in 1978, information on some issues that continued to be important during the 1980s, such as license branch reform, is included in the text where relevant. Also, since data on legislators was compiled through the 104th General Assembly of 1985-1986, such data are sometimes incorporated into the text and accompanying tables.

The task of writing a history of a state legislature has been a formidable undertaking. No state before Indiana ever subsidized such an effort and no historian in any state ever attempted it on his own. There are many reasons why. The amount of primary source material for any state is massive and potentially overwhelming. For Indiana the legislative *Journals* alone—not the record of debates, but the mere summary of proceedings—come to better than 250,000 printed pages. Minutes, bills, and laws from territorial days to the present account for nearly 150,000 more printed pages. There are, in addition, documentary records of committee hearings, records relating to House and Senate business, reports of commissions, manuscripts and other records of individual legislators, and for the more recent period, oral histories of people prominent in Indiana politics and government. The Indiana State Library abounds with such sources in numbers beyond precise calculation. Primary source material also includes 34,000 reels of microfilm and thousands of bound issues of Indiana newspapers. These newspapers are indispensable sources for tens of thousands of legislative elections during the state's history, plus day-to-day coverage of most legislative sessions. Assuming this mass could be culled by a corps of assistants, then mastered by an author and reduced to a comprehensible whole, there are additional problems regarding the size and scope of the account.

The problem of size was solved by the time frame imposed on the project by statute. This forced me to limit the history to a one-volume study based upon a manuscript of not more than 1,300 typewritten pages. The problem of scope was more difficult. I knew that all the problems of society tended to pass

through the legislature, so the potential subject matter was vast. With a one-volume study the scope had to be limited ruthlessly. In this situation, I turned to the late Professor Frederic Logan Paxson for guidance. Paxson, best known as the first historian to synthesize a history of the American frontier, stressed the importance of facts:

> History is, after all, a matter of ascertained facts. And the relevant facts of any theme interesting to men have in the beginning a local incidence in time and place. Until they are verified, no fair conclusion can be reached; and until local detail has been assembled in vast volume no larger generalizations can be made.

In the spirit of Paxson's words, the book that follows focuses rigorously upon basic facts regarding the first 100 Indiana general assemblies. No attempt is made to draw grand lessons of universal significance because such an analysis was not possible. Most often comparative data for other state legislatures have not been gathered; where comparative data exist, they could not be mastered within the time frame for this publication. I concentrated instead on assembling verifiable facts regarding the Indiana legislature in as great a volume as possible so that others might later make larger generalizations. On issues of major import the reader will be told what the Indiana General Assembly did, who supported and who opposed the action, why he or she did so, and with what result. Throughout, a conscious effort is made to let the participants speak for themselves as their words and deeds are recorded in dusty legislative volumes, in column reams of Indiana newspapers, and in file folders prepared for each of the more than 6,000 persons who have served as Indiana lawmakers. Prosaic matters such as constitutions, rules, by-laws, laws, court decisions, taxes, and revenue are covered because they cannot be ignored in the history of a lawmaking body. Routine events are not covered, however, at the expense of the merely interesting. Through the years the mundane and the unusual have thrived in approximately equal proportion in legislating for the citizens of Indiana. The story which follows attempts to recount, as succinctly as possible, both the unique and the routine in the state's heritage of a citizen legislature.

The Biographical Directories, Quantification, and Word Processing

At the outset I told my staff that the narrative history took precedence over the biographical directories because unless the Select Committee had satisfactory drafts of chapters covering the pioneer period within fifteen months the legislature would give up on the project. The nineteenth century biographical directory, nearly ready for publication, was the only concrete evidence that the project was on track. The volume was published in March, 1980, ten months after I assumed control. Since publication, the sketches have been continuously updated in the process of quantifying the data for the narrative history. Although the updates cover the entire century, they are especially important for legislators of the 1890s. Many lawmakers from that decade served after William H. English stopped collecting the biographical data that formed the research basis for most

of the published sketches. The additional material is preserved in numerous loose-leaf notebooks and is available to the public as part of the permanent records of this Centennial History project.

In the summer of 1981, with eight chapters drafted and research just beginning on the twentieth century, I postponed further work on the narrative until I had a surer grasp of the material. For the next two years I read the sources for the twentieth century and supervised preparation of the second biographical directory as general editor. Through 1983 two full-time research assistants compiled data on the more than 2,700 individuals who had served in the Indiana General Assembly since 1901. As they finished each individual, I entered the information on the word processor and sent printouts for quantification to a third full-time assistant, Vincent A. Giroux, Jr., a doctoral candidate in history at Indiana University in Bloomington. The sketches and the quantification were constantly updated as new data were found.

Professor George Alter of Indiana University showed me how our biographical data could be used and what kinds of specific questions a computer analysis could answer. Based upon his advice, the staff and I developed a coding system to provide the information we wanted for the narrative history. When Giroux joined the staff in September, 1980, we were ready to begin the quantification program used throughout this book. Through the cooperation of William B. Cohen, chairman of the History Department, Giroux was named a visiting researcher with full use of Indiana University's Bloomington Academic Computing Services (BACS). A separate arrangement with Donald L. Kinzer and Bernard Friedman, successive chairmen of the History Department at Indiana University-Purdue University, Indianapolis (IUPUI), gave us an access code and full computer privileges at IUPUI. Without the cooperation of the history departments and computer centers at both campuses, the quantification of our biographical data could not have been accomplished.

Giroux used the Statistical Package for the Social Sciences (SPSS), with 1982 revisions. The input modes were disk and tape, with permanent files created on disks and transferred to magnetic tapes at the end of computing sessions. The data base consists of more than 6,000 individuals who served in the Indiana General Assembly since 1816. Major variables include such things as date and place of birth, ethnic background and religion, occupations, political affiliation, party and government service, fraternal and service affiliations, dates and house of legislative service, and home county. These variables enabled us to discover such things as who had seniority in each house at each session, the precise count and percentage of each party by session and house, and the total numbers of legislators by religion, ethnic background, and occupation by session and house. We thus could draw composite pictures for every legislature between 1816 and 1984 and, when useful, draw a legislative profile for any county during any era. We did not attempt more sophisticated computer analyses, such as how economic standing, ethnic background, or religion might influence key roll call votes, because of the time limitations imposed on the project.

In 1985 copies of four magnetic tapes containing our data were deposited with the Indiana Political Data Archive and Laboratory. This laboratory, operated

by the Department of Political Science at Indiana University, Bloomington, is directed by Professor Gerald Wright who, as permanent custodian, will make the Centennial History tapes available for anyone doing research on the Indiana legislature.

The work of drafting chapters, as well as the task of preparing sketches for the twentieth century directory, was expedited when the Select Committee authorized the addition of word processing capability in the fall of 1981. Edwin J. Howell, director of the Commission on Public Records, allowed us access to the commission's word processing system. The system, located in the Archives Division, Indiana State Library, was supervised by State Archivist John Newman, a member of the advisory council. Without the cooperation of both Howell and Newman, we could never have met the publication deadlines for either volume.

Funding: The Legislature and Lilly Endowment, Inc.

Financial support was assured only through 1981 under the legislation that established the Centennial History project in 1976. When the 1981 General Assembly convened I had completed drafts of the first eight chapters carrying the story of the legislature up to 1890. The Select Committee had these drafts at its disposal, plus substantial quantification of the biographical data in the nineteenth century directory and proof that research was proceeding into the twentieth century. As a result, the legislature extended the project through 1984 but appropriated funds only for the fiscal year ending June 30, 1982. Funding for the 1982-1983 fiscal year was left for consideration by the 1982 session. When the recession of the early 1980s caused state revenue to fall far short of projections, Governor Robert D. Orr imposed a freeze on hiring and called the legislature into special session in December, 1982, for the express purpose of raising taxes. At the 1982 session frugality was the order of the day as all but essential state services were cut back. Since the legislative history project fell into the non-essential category, its demise seemed probable.

Then, the Select Committee turned to the Lilly Endowment, Inc., for help. This Endowment frequently supports projects which promote understanding and study of the history and institutions of Indiana. Two officers of the Endowment, former Republican Lieutenant Governor Richard O. Ristine and former Democratic party State Chairman Gordon St. Angelo, proved especially receptive to our need. Through their efforts, the state received two separate grants to maintain the legislative history project from June, 1982, through June, 1984. These grants kept the project intact without a legislative appropriation during the years of financial stress. Without the support of Ristine and St. Angelo, the Centennial History project certainly would have been interrupted for two years beginning in 1982, if not stopped altogether.

Public Law 151 of 1976, as amended in 1981, expired on June 30, 1984. In August, 1983, I was summoned before the legislature's joint "sunset" committee. This committee, chaired by Senator Richard E. Shank of Elkhart County, was charged with oversight of state agencies whose commissions were due to expire. At the time of my appearance, the second biographical directory was nearly ready; we had computer-generated data on more than 6,000 legislators;

and I had drafted ten chapters carrying the narrative into the 1890-1930 era. I conveyed this information to the committee, along with appropriate illustrations of our work. I remember especially that Senator Carolyn B. Mosby of Lake County was interested in how the history would treat blacks and women, groups she described as her "two favorite minorities." I showed her computer printouts regarding both groups and promised to share with her what I had written regarding each. The committee voted 11 to 1 to recommend the Centennial History project be extended through 1986 so that the project might be finished. The 1984 session acted positively on this recommendation and funding for completion of the history was assured.

Staff Contributions

This history is the result of a collective effort by six people who allowed me to bring to fruition the history of the Indiana General Assembly as I conceived it should be written. Each made unique contributions that let the story unfold essentially as I saw it.

William Doherty

As the only person associated with the project from beginning to end, William Doherty made suggestions on the research and writing throughout the book. A history professor at Marian College and a half-time assistant, he made his first contribution shortly after I arrived. A draft for the pioneer era appeared feasible because the office contained some two thousand miscellaneous notes gathered for the years to 1850. While many of the notes contained relevant—even excellent—material, the quality was mixed. Doherty took on the task of separating the wheat from the chaff and dug further in those instances where additional research was indicated. Thanks to his effort, by the spring of 1980 I was able to begin drafting the first four chapters from a solid base of material.

Doherty also researched the newspapers and legislative documents from 1871 through 1889 and had primary responsibility for examining the many sources that abound for the years since 1920. He made one of the most important contributions with his work on the Ku Klux Klan and the 74th General Assembly of 1925. Working with the sources in the Indiana State Library on this issue he closely analyzed the *Journals* to correlate House and Senate roll calls with what he found. Doherty utilized the same technique to study the 78th General Assembly of 1933 that implemented the program of Governor Paul V. McNutt. As a result, Chapter 9 contains an analysis of a question heretofore the subject of speculative generalization, *i.e.*, the Klan's impact on the Indiana General Assembly; and Chapter 13 discusses the ways in which McNutt utilized the legislature to initiate a revolution in state government. Doherty also acted as first reader for chapters covering the years from 1930 to 1978.

Elizabeth Shanahan

A professional librarian, Elizabeth Shanahan joined the staff as a half-time assistant in 1977. She became full-time shortly after I began drafting the first chapters and discovered some serious shortcomings and omissions in the nineteenth century biographical sketches. She and Alan January spent six months improving

the quality of the sketches so that the book was ready for publication in March, 1980. Shanahan then devised the coding system and computer program implemented by Vince Giroux. Her most important contribution was as co-editor, with January, of the twentieth century directory. She prepared nearly one half of the sketches for that volume and of necessity also unearthed a rich deposit of information for the narrative history—information that was immediately at my disposal as the story of twentieth century legislatures took shape in my mind. In addition, as an experienced draftswoman, Shanahan prepared the maps which accompany this history. These maps depict the boundaries used in Indiana from 1816 to 1972 to divide the state into legislative and congressional districts. In November, 1983, as work on the second biographical directory was winding down, Shanahan left the project to take a permanent position with the Indiana State Library.

Alan F. January

While particular parts of this book, as indicated, bear the indelible stamp of one or more assistants, the fine hand and mind of Alan January is present on every page. He joined the staff in September, 1978, and was initially assigned by my predecessor to research the nineteenth century legislative collections in the Indiana Historial Society Library. They supposedly had been culled earlier for biographical data but no effort was made to gather material for the narrative. January reworked these collections and mined them for all they were worth. Had it not been for this fortuitous circumstance, I do not believe the pioneer period research could have been salvaged. After I became director, January and Shanahan prepared the nineteenth century directory for publication. Then, as editor-in-chief, January bore primary responsibility for preparing the twentieth century directory.

After completing his biographical research in 1984, January began the task of getting the narrative history ready for my final revision. He worked his way, chapter by chapter, through the manuscript, meticulously checking citations for accuracy, doing additional research where necessary, and discovering several instances of faulty wording or questionable interpretation. As a result of January's reading I undertook final revisions in 1985 and was able to meet a 1987 publication deadline. January's final contribution is the comprehensive index he prepared in 1986. Every reader of this book will appreciate the thoroughness and precision of his work.

Elisabeth Israels Perry

Research on the years from 1851 to 1978 began in September, 1979, when Elisabeth I. Perry of Bloomington, Indiana, joined the staff. She brought to the project years of experience as an historian and an intense interest in social issues. From her base on the Indiana University campus she explored legislative documents for the sessions from 1851-1852 through 1869 and examined the manuscript collections at the Lilly Library. She also researched race relations and women's rights during the nineteenth century, two areas I intended to feature. Perry remained on the staff exactly one year before returning to the academic

world. Her legacy is the research base for Chapter 5 and all references elsewhere to legislative documents and *Laws* for the years she covered.

Vincent A. Giroux, Jr.

Vince Giroux, as already indicated, took charge of our computer work. He is responsible for the precision with respect to biographical data and party control which appears throughout the book. The thoroughness of his work is shown to best advantage in the chapters entitled "The Legislators." In addition, most references to legislative documents, laws, and newspapers for the years 1890 to 1920 reflect his research. Shortly after completing quantification of our biographical data in the fall of 1984, Giroux accepted appointment as an historian with the United States Air Force.

Jerome Donahue

Jerome Donahue joined the staff as a half-time assistant when Elizabeth Shanahan transferred to the State Library. Donahue, an experienced editor, made a twofold contribution: he edited the disks for the second biographical directory for printing and entered the manuscript for the narrative history on the word processor, coded for printing. Thanks to his expertise both manuscripts were updated almost to the moment of publication.

Acknowledgments

In addition to my staff who bore the primary burden with me, I must thank the following individuals:

Legislators

First, thanks go to Senate President *Pro Tempore* Robert D. Garton, chairman of the Select Committee, who championed the legislative history project from its inception and read each chapter as it was drafted. Without Garton's counsel, encouragement, insight, and support the project would never have been completed. I also want to give special thanks to five other committee members who have served continuously since I became director: Representatives Walter J. Roorda, Richard B. Wathen, and B. Patrick Bauer, and Senators Clay P. Baird and Louis J. Mahern, Jr. Roorda cosponsored the bill in 1976 that established the Select Committee and has supported my work without exception since 1979; Wathen, vice-chairman of the committee, read each chapter as it was drafted and offered continual encouragement; Baird, Bauer, and Mahern each assisted in getting the project extended in 1981 and 1984.

Committee members who did not serve continuously but who deserve mention include Representatives Catherine E. Van Arsdale and Esther Wilson, and Senator Lawrence M. Borst, Jr. Van Arsdale was chief sponsor of the House bill that established the project in 1976. Wilson's graciousness during my second interview, particularly her concern about how total immersion in legislative history might affect my family, will always be remembered and appreciated. Borst, who replaced Lieutenant Governor-elect John M. Mutz on the committee in 1981, sponsored the bills in the Senate that made it possible to complete the project. Borst also

made helpful suggestions on how to cover the complicated story of state taxation and revenue since the 1930s.

Senator Burnett C. Bauer cosponsored the original legislation for the project and served on the Select Committee in 1976. Senator James A. Lewis, Jr., was a member from 1976 to 1978. Representative Forest Handlon, Jr., served on the committee in 1976. Representative Mary Jean Pettersen served from 1981 to 1986.

Senators Richard E. Shank, Carolyn B. Mosby, W. Wayne Townsend, and Representatives Michael K. Phillips and Hurley C. Goodall also merit thanks. Shank, as chairman of the committee that inquired into our status in 1983, was helpful to a project director the senator must have sensed was nervous. Phillips offered key support when I appeared before the House rules committee in 1984 to defend extension of the project; Townsend offered similar encouragement when I was before the Senate budget committee for the same purpose. Mosby and Goodall played key roles during the 1986 session when the appropriation for our final year passed.

The final legislator whom I wish to thank is J. Roberts Dailey, speaker of the House from November, 1980 to November, 1986. Speaker Dailey showed a genuine and continuing interest in preserving the history of the Indiana legislature for future generations. His encouragement and support was vital to the successful completion of the project.

Advisory Council

Among members of the advisory council to the Select Committee I want particularly to thank Professors John J. Baughman of DePauw University, Herbert H. Hamilton of Ball State University, John F. Stover of Purdue University, and York Willbern of Indiana University. These four served on an editorial subcommittee to read the manuscript and offered many valuable suggestions. In addition, Baughman and Hamilton were helpful during the difficult period of transition in 1979 and 1980. Gayle Thornbrough, former executive director of the Indiana Historical Society, rendered several kindnesses as a member of the advisory council and expedited use of the William H. English Legislator Collection in the Society's Smith Library. Other members I want to thank include Donald F. Carmony, professor emeritus of history at Indiana University, President John E. Horner of Hanover College, John W. Hicks of Purdue University, the late Professor I. George Blake of Franklin College, and President Emeritus Alan C. Rankin of Indiana State University. Carmony introduced me to Indiana history when I was a graduate student and encouraged me to apply for the position of legislative historian. Horner and Hicks were always decisive in their support of the project at council meetings. Blake reacted with special kindness to my coverage of the nineteenth century legislatures. Rankin helped the project acquire copies of legislative documents deposited at the Indiana State University Library in Terre Haute.

Individuals and Agencies

Two historians not associated with the project also merit thanks. At my request, Dorothy L. Riker of the Indiana Historical Society read the first drafts

covering the pioneer period with the eyes of one steeped in the history of the era. Her suggestions were greatly appreciated and implemented. Likewise, Emma Lou Thornbrough of Butler University, an authority on the history of blacks in Indiana, read the material on race relations during the nineteenth century.

James E. Farmer, vice-president, Howard E. Wilcox, Inc., knows the Indiana legislature as a newspaperman who covered it in the 1950s, as an administrative assistant to Governor Roger D. Branigin from 1965 to 1969, and most recently as a lobbyist for the Indiana Bar Association. He attended meetings of the Select Committee and the advisory council faithfully as an interested citizen anxious to help in any way he could. In addition to supplying clippings regarding the legislature from newspapers all over the state, Farmer used his vast contacts with former legislators and with newspaper editors to help compile information for the history.

The Legislative Services Agency—the full-time staff of the General Assembly—provided technical and clerical help. Executive Director Charles W. Harris helped each year with the preparation of budgets so that I could devote my time to completing the Centennial History project. Mary Cummins, an administrative assistant, handled payroll and purchasing efficiently. John A. Bremer, deputy director of bill drafting and research as well as counsel to the Select Committee, encouraged my work in every way. He read each chapter, offering insight which reflected his enthusiasm for history and his expertise as a draftsman.

The Indiana Historical Bureau served as publisher for the Select Committee of all the Centennial History volumes. Bureau Director Pamela J. Bennett performed those necessary chores incident to publication: she supervised editing of the text after it left our office and proofreading when it returned from the printer; she decided questions of format, type size, and layout; she arranged for typesetting and printing. But Bennett's most important contribution lies in her unyielding determination to see that the project succeeded. Always straightforward and unequivocal with both advice and criticism, Bennett has supported my work in every possible way.

Shirley S. McCord and Robert G. Barrows of the Indiana Historical Bureau edited the text after it left the Centennial History office. McCord's hand is mainly responsible for consistency in style, in the format of citations, the spelling of names, and the accurate designation of state agencies. Her sure instinct for Indiana history corrected many lapses and oversights that make a writer vulnerable because he is too close to the material. Besides complementing the editorial work of McCord, Barrows organized the tables and maps in the appendices. Seeing that the original tables contained excessive detail, he devised a simpler format that will tell readers at a glance what they want to know.

Indiana State Library Director C. Ray Ewick arranged convenient and spacious accommodations for the legislative history office. Dave Baker, business administrator, responded promptly and knowingly to every problem regarding maintenance and security. William O. Harris, Head of the Genealogy Division, and Byron Swanson, Head of the Indiana Division, made their resources on Indiana history readily accessible. In the Indiana Division, special thanks go to Manuscripts Librarian Marybelle Burch and to John Selch, librarian of the

Newspaper Section. Burch, with constant good humor, examined the myriad collections of papers and oral histories with a watchful eye for material we could use; Selch answered thousands of requests for Indiana newspapers with dispatch.

Finally, I want to thank my wife, Mary Sue Walsh, and my son, Justin Gerard Walsh. Both put up with the vagaries of a sometimes cantankerous historian as he wove his way through 168 years of legislative history. My wife, as always, was patient, helpful, and understanding each step of the way. My son, while my wife and I were away one evening in early August, 1976, saw a state senator on the evening news. "He said they need somebody to write a history of the legislature. It sounds like something you could do, Dad." The next day I looked into the matter and shortly thereafter applied for the job.

JUSTIN E. WALSH
Indianapolis
October 6, 1986

Part I
THE PIONEER PERIOD
1816 to 1850

Chapter 1
The Setting and the Major Issues

There was excitement and an air of expectancy in Corydon, Indiana Territory, on Monday, November 4, 1816. The state of Indiana was about to be born as the first General Assembly convened and satisfied the last requirements of the United States government for admission to the Union. Although formal admittance would be delayed until Congress met in December, statehood was a foregone conclusion and thus there was work to be done—work that constitutionally only the General Assembly could do. Those gathering for the work included most of the leading men in the territory. Some, like Governor-elect Jonathan Jennings and state Representative James Noble, were accomplished politicians already well-known. Others, like Senator Dennis Pennington and Representative Davis Floyd of Harrison County, were local community leaders. There were also some strangers present, men who came to Corydon new to politics after having won the people's favor for the first time in the August 5 general elections. In addition, there were a number of office seekers and political hangers-on in evidence—types always present when spoils or political favors are to be distributed.

By far the most important of those assembled were the twenty-nine members of the Indiana House of Representatives and the ten members of the Indiana Senate. Until these thirty-nine men convened, organized, and functioned there could be no "Supreme Executive power . . . vested in a Governor" because the state's new Constitution specified that gubernatorial election returns be directed to the speaker of the House, "who shall open and publish them in the presence of both houses of the General assembly." Further, in the event of a tie, the winner would be chosen by a joint vote of both houses. Should the election be contested, the result would be determined by a joint committee "formed and regulated in such manner as shall be directed by law."[1] Until the legislature followed these procedures, the executive branch of state government could neither commence nor function. There also could be no state courts without legislative action because judicial power was vested in a Supreme Court, in circuit courts, and in such "other inferior Courts, as the General Assembly may . . . direct and establish." The governor appointed three Supreme Court judges, but only with the advice and consent of the Senate. Presidents of the circuit courts were to be elected by joint ballot.[2] The responsibilities facing the 1st General Assembly also included election of a secretary of state, a state treasurer, and an auditor, plus the choosing of two United States senators and three presidential electors. Such was the power vested in the Indiana General Assembly when it first convened in Corydon.

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[1] Charles Kettleborough, *Constitution Making in Indiana* (3 vols., Indianapolis, 1916, 1930), 1:96-97.

[2] *Ibid.*, 1:103-4, 106.

Corydon! It was an unlikely name for a seat of government and an unlikely place to begin a momentous exercise in self-government.[3] According to a biographer of John Conner, senator from Franklin County, when Conner arrived for the first session he found "a community of less than one hundred buildings—rude cabins or houses of hewn logs."[4] By 1820 the population was only 344 people and there were still less than 100 permanent dwellings.[5] In short, Corydon was a raw frontier community selected to be Indiana's territorial capital in 1813 as a compromise between Vincennes, the original capital, and Madison, the largest town in the rapidly growing southeastern corner of the territory.[6] A courthouse was nearly finished by 1816 when the constitutional convention met on June 10. On June 26, three days before adjournment, delegates approved Corydon as the seat of government until 1825.[7] Although the *Journal of the Convention* indicated little debate on the matter, Corydon residents had taken steps to make their town attractive as a state capital. The Harrison County court at a special June term—probably while the convention sat—ordered that the courthouse be tendered to the legislature for use as a State House. At the same time several residents signed a $1,000 bond, payable to the state on November 29, 1816. This would pay the governor's salary for one year. Also, Davis Floyd contracted with the convention to provide a governor's house and executive office space for as long as Corydon remained the capital.[8] This was how Corydon secured its place

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[3] Territorial Governor William Henry Harrison, who owned the townsite until 1807, probably suggested the name from a favorite song about a maiden named Caroline pining for her deceased swain, Corydon. The relevant lines were: "Sweet Corydon's notes are all o'er,/ Now lonely he sleeps in the clay,/ His cheeks blown with roses no more,/ Since death called his spirit away./ O Corydon! hear the sad cries,/ Of Caroline plaintive and slow." See Charles Moores, "Old Corydon," *Indiana Magazine of History*, 13 (1917), 31-32; William H. Roose, *Indiana's Birthplace: A History of Harrison County, Indiana* (New Albany, Ind., 1911), 17-19.

[4] Charles N. Thompson, *Sons of the Wilderness: John and William Conner* (Indianapolis, 1937), 90.

[5] "Population of Corydon," Corydon *Indiana Gazette*, September 17, 1820. This article gives a breakdown of 189 white males, 147 white females, and 8 free persons of color.

[6] Gayle Thornbrough and Dorothy Riker (eds.), *Journals of the General Assembly of Indiana Territory, 1805-1815* (Indianapolis, 1950), 563, 568, 572, 585; Louis B. Ewbank and Dorothy L. Riker (eds.), *The Laws of Indiana Territory, 1809-1816* (Indianapolis, 1934), 335-38.

[7] *Journal of the Convention of the Indiana Territory* . . . (Louisville, Ky., 1816), reprinted in *IMH*, 61 (1965), 147. A good synopsis of the transition from territory to state is *ibid.*, "Introduction," by Donald F. Carmony, 77-85. See also Kettleborough, *Constitution Making in Indiana*, 1:118.

[8] For the court order, *House Journal*, 1816-17, p. 57; for the offer of a governor's residence, see letter of Jonathan Jennings, *Senate Journal*, 1820-21, pp. 96-97, and *Journal of the Convention*, in *IMH*, 61:153. The General Assembly eventually passed special laws and instituted a lawsuit to collect on these financial promises, but only $291 was paid on the bond and no home was provided for the governor. Ultimately, a judgment for $1,000 against Dennis Pennington, Davis Floyd, John Tipton, and other signers of the bond was reversed by the Indiana Supreme Court in 1820. *Senate Journal*, 1816-17, pp. 22-23, 89-90; *House Journal*, 1816-17, pp. 27, 57, 58, 112, 121; *ibid.*, 1818-19, report of ways and means committee, 143; *ibid.*, 1819-20, auditor's report, 41, ways and means committee report, 201; *ibid.*, 1820-21, auditor's report, 32-34; *ibid.*, 1821-22, auditor's report, 30-33; *ibid.*, 1822-23, report of select committee on bond, 60-61; *ibid.*, 1825, resolution by Benjamin Beckes, 77. See also *Laws*, 1819-20, "An Act to secure the collection of a certain debt . . . ," 61-62; *Pennington and Others* v. *The Governor*, 1 Ind. 78.

as the political mecca during the first years of statehood. The early history of the Indiana General Assembly is permanently linked to this hamlet in Harrison County where the legislature tried and tested its rules and procedures, began to practice amenities that became customary, and wrestled for the first time with some substantive issues of lawmaking.

Getting Under Way

The most immediate concern at 9 a.m. on November 4, 1816, was counting votes for governor and lieutenant governor. Before this could be done, twenty-eight members of the House of Representatives[9] produced credentials, were sworn in the usual form, and took their seats.[10] They then elected Isaac Blackford of Knox County as speaker and adopted a resolution directing Governor-elect Jennings to come "for the purpose of taking the oath of office."[11] In the Senate, Dennis Pennington, a justice of the peace for Harrison County, administered the oaths to his colleagues. Pennington's oath was administered by territorial Judge Waller Taylor of Vincennes, a visitor. Senator John Paul, representing Jefferson and Switzerland counties, was elected president *pro tempore*.[12] Then the Senate moved to the joint resolution directing Jennings to come and be inaugurated.

At this point, on the first morning of the first session, the Senate established itself as the more sophisticated and politically astute body by refusing to concur with the perfunctory House resolution. Instead, on motion by William Prince of Gibson County, the invitation was expanded to include Lieutenant Governor-elect Christopher Harrison. Prince's resolution, cast in considerably more polite language than the House version, stated that the General Assembly wished to know from Jennings and Harrison "at what time it would be convenient . . . to commence the discharge of their duties."[13] The House concurred and the two men appeared on November 7 before the first joint session of the Indiana General Assembly. The session convened in the House and, in all probability, senators took seats to the right of the speaker.[14] After the inaugural ceremonies Jennings

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[9] The seat of the twenty-ninth, Jonathan Lindley of Orange County, was contested and Lindley was not seated until November 21, after he won a special election. *House Journal*, 1816-17, pp. 5, 7-8, 33.

[10] The credentials were certificates of election signed by the clerk of the circuit court, listing the names of each candidate and the vote totals. For typical examples see those from Harrison County, August 5, 1818, in Nellie Armstrong Robertson and Dorothy Riker (eds.), *The John Tipton Papers* (3 vols., Indianapolis, 1942), 1:147-49. *Senate Journal*, 1816-17, pp. 3, 4, made it clear that being sworn in the usual form meant taking an oath to support the constitutions of the United States and the state of Indiana, plus the oath prescribed by "An Act more effectually to prevent duelling," passed by the territorial legislature in 1813. Ewbank and Riker (eds.), *Laws of Indiana Territory*, 442-45.

[11] *House Journal*, 1816-17, pp. 4, 5.

[12] *Senate Journal*, 1816-17, pp. 3, 4.

[13] *Ibid.*, 5.

[14] It is clear from the early journals that joint sessions met in the House. For evidence that senators customarily took seats to the right of the speaker, see *House Journal*, 1817-18, p. 6; *ibid.*, 1821-22, p. 232; *Senate Journal*, 1820-21, p. 31.

delivered a speech in which he recognized the preeminence of the legislature: "The period has arrived, which has devolved on you, the important duty of giving the first impulse to the government of the state." He reminded his audience that its earliest deliberations would be indicative of that government's future character. Then he asked for laws to encourage moral virtue and restrain vicious conduct. Jennings also recommended that the needs of education be met, the statutes revised, and a state bank incorporated. After he finished, the assembly adjourned until the afternoon when it reconvened to elect Robert A. New secretary of state by a vote of 23 to 11 over Alexander Holten.[15]

The next morning, November 8, the Senate returned to the House chamber and helped elect James Noble and Waller Taylor to the United State Senate. Noble received 26 votes, Taylor 20 votes; the remaining votes were scattered among six others.[16] The Constitution stipulated that no member of either house could serve in any office the appointment of which was vested in the General Assembly. Representative James Noble was nonetheless eligible to become a United States senator because the Constitution also stipulated "That nothing . . . shall be so construed, as to prevent any member of the first Session" from accepting an office created by the state or federal constitutions if the salary of the office was already established.[17] Thus, on November 9, Noble became the first legislator to resign when he gave up his seat as a representative from Franklin County.[18]

A proposal to elect three presidential electors on November 11 occasioned the first House roll call. Some legislators questioned whether Indiana, which was not a state at the time of the presidential election, could constitutionally cast electoral votes. A majority felt Indiana not only could but should cast such votes, and they were not to be deterred by arguments of strict constructionists. The resolution passed the House 20 to 4 and carried in the Senate 7 to 3. On November 13, Jesse L. Holman, Joseph Bartholomew, and Thomas H. Blake were elected Indiana's first presidential electors.[19] On November 16, when the Senate returned to the House chamber, William H. Lilly was elected auditor of public accounts and Daniel C. Lane was elected treasurer of state.[20] Thus, after only two weeks, the first General Assembly had launched state government and filled essential state and federal offices.

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[15] Governor's message, *Senate Journal*, 1816-17, pp. 8-10; New's election, *House Journal*, 1816-17, p. 9.

[16] *House Journal*, 1816-17, p. 16; *Senate Journal*, 1816-17, p. 12.

[17] Kettleborough, *Constitution Making in Indiana*, 1:94.

[18] *House Journal*, 1816-17, p. 18. For seating of George L. Murdock as Noble's replacement on December 2, 1816, see *ibid.*, 48-49.

[19] *House Journal*, 1816-17, pp. 20, 23; *Senate Journal*, 1816-17, p. 18. When the subject of these votes came up on February 12, 1817, before a joint session of the United States Congress, Representative John W. Taylor of New York objected that there were grave doubts whether Indiana was entitled to vote. Debate became heated and the Senate withdrew while the House discussed the question. The deliberations included a plea on Indiana's behalf by its only congressman, William Hendricks, and the House decided that Indiana could vote. The three votes were then recorded for James Monroe. Jacob Piatt Dunn, *Indiana and Indianans* (5 vols., Chicago and New York, 1919), 1:339-41.

[20] *Senate Journal*, 1816-17, p. 23.

One of the first bills to become law illustrated the primitive conditions of life and state finance in early Indiana. Charles H. Test, who served in both houses during the pioneer period, recalled decades later that farmers could not raise sheep because the state was infested with wolves. In response to numerous petitions requesting a premium on wolf scalps, the General Assembly passed "An Act to encourage the killing of wolves" that placed a bounty of $2 on the beasts. Wolves immediately became an endangered species since the act did not specify the kind of wolf embraced by the law. Test thought it applied only to "the large gray species . . . the most to be feared among the farmers' sheep." But many, including Representative Ratliff Boon, took to hunting the prairie wolves found in great numbers in the Wabash country. Boon, in possibly the first conflict of interest case involving a state legislator, was paid several hundred dollars in 1817 and in 1818 the General Assembly repealed the bounty to relieve pressure on the treasury. The margin for repeal was 5 to 4 in the Senate and, interestingly, Boon, then a senator, voted with the majority.[21]

The necessity for repeal of the wolf bounty indicated the tenuous nature of state finance. During the first decade of statehood it cost Indiana about $25,000 a year to operate state government,[22] with the largest expense being the cost of annual sessions of the legislature. For example, out of total expenses of $20,055.33 for 1816-1817, $7,325.12 was expended in payment of members of the General Assembly.[23] By the early 1820s the cost of annual sessions rose to over $15,000 as apportionments increased the number of members. The salary of legislators, set originally by the Constitution, was $2 per day plus $2 for every twenty-five miles traveled to and from sessions provided that they "travel on the most usual route."[24] This rate was written into laws passed during the first two sessions and reaffirmed in the revised code of 1830-1831. In 1838, pay was raised to $3 per day, where it remained for the balance of the pioneer period.[25] In 1821, sixteen of the twenty-four states in the country paid more to their legislators than did Indiana; four paid the same; and three states paid less.[26]

A case could thus be made that assemblymen were underpaid. Certainly, $2 a day was not exorbitant. Besides the difficulties and dangers of winter travel to and from the capital, members also faced the prospect of working on Christmas

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[21] Test to William W. Woollen, in William Wesley Woollen, *Biographical and Historical Sketches of Early Indiana* (Indianapolis, 1883), 49-50. For passage of the act, *Senate Journal*, 1816-17, pp. 8, 44, *Laws*, 1816-17, pp. 149-50; for repeal, *House Journal*, 1817-18, pp. 44-45, *Senate Journal*, 1818-19, p. 43, *Laws*, 1818-19, p. 91.

[22] Donald F. Carmony, "Historical Background of the Restrictions Against State Debt in the Indiana Constitution of 1851," *IMH*, 47 (1951), 130.

[23] Report of state treasurer, *Laws*, 1817-18, p. 123.

[24] Kettleborough, *Constitution Making in Indiana*, 1:119. For moves at the convention to reduce the per diem, *Journal of the Convention*, in *IMH*, 61:148-49.

[25] *Laws*, 1816-17, p. 171; *ibid.*, 1817-18, p. 67; *ibid.* (revised), 1830-31, p. 256; *ibid.*, 1837-38, p. 302.

[26] Vincennes *Western Sun*, April 28, 1821. Rhode Island, at $1 per day, paid the lowest, while Georgia, Mississippi, and Alabama paid the highest at $5 per day.

and New Year's Day and, if time ran short, there were night sessions.[27] Such sessions must have been frequent; the annual reports of the secretary of state regularly included entries such as "Candles dipt at 25 cents per pound, Moulded at 30 cents per pound."[28] After moving to Indianapolis the General Assembly continued to meet on the holidays through at least 1833. As at Corydon, sessions on Christmas Day were brief. Then, in 1834, both houses adjourned from December 25 through 29 but met on New Year's Day.[29] When they adjourned on December 24, 1839, for eight days, it marked the first holiday recess that embraced both Christmas and New Year's Day.[30] Since members drew their per diem while in recess, there was immediate criticism.[31] As a result, when the legislature reconvened a bill was introduced to move the opening of sessions to after the holiday season. Senator George B. Thompson argued for the bill on grounds that such a change was constitutional and would save money since members could not draw a per diem while out of session.[32] The bill failed but the uproar halted further attempts for a protracted holiday recess. The Constitution of 1851 resolved the matter by setting a January starting date.

Because their expense was the largest and most conspicuous entry in the annual budget, early general assemblies were stringent in conducting day-to-day business. Every item, including the simplest housekeeping, was scrutinized with a cost consciousness born of scarcity. For example, in 1817 the House ordered the doorkeeper "to furnish immediately, one dozen inkstands, of a low price, for the use of this house." In 1820 a table "with a drawer and lock for the Speaker" was added at a cost of $5. Other expenses included an axe for the doorkeeper at $3.50, plus $3.50 for repairing a stove pipe.[33] The House extended frugality to facilities furnished for visitors, and accommodations might differ depending upon the importance of the guests. Thus, in 1822 seats were provided for Supreme Court Justice Isaac Blackford "and such other officers of state as may occasionally attend this House." The following year hospitality of a different degree prevailed as the doorkeeper was authorized to procure "two . . . benches, of a cheap kind, for . . . spectators in the lobby."[34] The Senate's sense of decorum was shown by John Gray's motion in 1822 "That the smoking of cigars, in the Senate chamber, while the Senate is in session, is inadmissable."[35]

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[27] Generally the Christmas Day sessions at Corydon were brief, as in 1817 when the major business was House concurrence in a Senate amendment to "An Act to improve the breed of horses." New Year's Day, however, was a full workday and sometimes, as in 1822, both houses also met New Year's evening. *House Journal*, 1817-18, pp. 92-93; *ibid.*, 1821-22, pp. 386-89.

[28] *Senate Journal*, 1822-23, pp. 19-20.

[29] *Ibid.*, 1834-35, pp. 190-91, 254-57.

[30] *House Journal*, 1839-40, pp. 153-55, 185; *Senate Journal*, 1839-40, pp. 86, 104. The motion passed the Senate 23 to 21, but a motion to suspend members' pay during the recess failed.

[31] A Brookville newspaper noted "The Legislature had adjourned for ten days for a holiday spree" and lamented that "the members receive $3 per day for all this wasted time." Brookville *Indiana American*, December 27, 1839.

[32] Thompson's remarks appear in the Indianapolis *Indiana Democrat*, January 21, 1840.

[33] *House Journal*, 1817-18, p. 15; *ibid.*, 1820-21, pp. 67, 188.

[34] *Ibid.*, 1822-23, p. 42; *ibid.*, 1823-24, p. 45.

[35] *Senate Journal*, 1822-23, p. 253.

In addition to housekeeping and hospitality, prayer and procedure in the event of illness or death among members were important in the everyday workings of the early general assemblies. Although the journals are silent on whether or not the first session opened and closed with the customary invocation for divine guidance, it is known that the majority who served during the pioneer period professed religious beliefs. When the House requested the Reverend Benjamin Adams to open the second session with "divine service," he initiated a practice that became routine in both houses.[36] Strong religious sentiment was also indicated in 1817 when lawmakers revived an 1810 act to incorporate the Indiana Church. The preamble stated that the purpose was to "contribute to the propagation of the gospel and the knowledge of the divine truth, to the advancement of piety and morality, and [to] promote order in society."[37] On December 26, 1818, a minister preached "in the state house . . . at early candle light" and members of both houses attended the service.[38]

In 1821 prayer received extraordinary attention when economic dislocation caused by the Panic of 1819 reached its height just as malarial disease swept the state. Representative Samuel Merrill of Switzerland County recalled that those days "were attended with more general and fatal sickness than has ever been experienced, either before or since." The situation led the General Assembly to call for a day of public penance so that God "may avert the just judgments impending our land." The joint resolution asked that all citizens refrain from servile labor on the appointed day while churches held special services of "humiliation, fasting and prayer." A proclamation by Governor Jennings designated the second Friday in April (Good Friday, 1822) as the day.[39]

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[36] *House Journal*, 1817-18, p. 4. The House refused, however, to appoint a chaplain by a 7 to 21 vote. *Ibid.*, 12, 23.

[37] *Laws* (special), 1817-18, pp. 39-41. The practice of incorporating churches was a legislative carry-over from territorial days. The first such act under state auspices revived and updated the charter of the Presbyterian church at Vincennes, which went by the name of the Indiana Church. In 1819 a similar act incorporated the Roman Catholic church at Vincennes. Both acts, following the prayers of the petitioners, appointed trustees, spelled out election procedures, and specified how bylaws would be drawn up and enforced. Ewbank and Riker (eds.), *Laws of Indiana Territory*, 23, 192-94; *House Journal*, 1817-18, p. 158; *ibid.*, 1818-19, p. 120; *Senate Journal*, 1817-18, p. 110; *ibid.*, 1818-19, pp. 104-5; *Laws*, 1818-19, pp. 121-23.

[38] *House Journal*, 1818-19, pp. 124-25. In 1820 prayer in the State House became a campaign issue when the Reverend Benjamin Adams ran for a seat in the House and was accused of collecting money from the General Assembly "for the purpose of making fires in the capitol building on Sundays when preachers come there to hold services." Adams admitted collecting the money and lost the election. For the charge against Adams and his response, see Corydon *Indiana Gazette*, June 15, 22, 1820.

[39] *House Journal*, 1821-22, p. 264; *Senate Journal*, 1821-22, pp. 197-98, 228; *Laws*, 1821-22, p. 171; "Proclamation: Ordering Day of Fasting and Prayer," in Logan Esarey (ed.), *Messages and Papers of Jonathan Jennings, Ratliff Boon, William Hendricks* (Indianapolis, 1924), 255. See also Dunn, *Indiana and Indianans*, 1:371-72. In 1832 Governor Noah Noble issued a similar proclamation during a cholera epidemic, but the initiative came from religious leaders and there is no evidence of legislative involvement. Noble also originated the custom of issuing a Thanksgiving Day proclamation in 1837, but again the legislature played no role. See Dorothy Riker and Gayle Thornbrough (eds.), *Messages and Papers Relating to the Administration of Noah Noble, Governor of Indiana, 1831-1837* (Indianapolis, 1958), 128-29, 564.

Another early practice that evolved into custom was the protocol invoked when a member died while the assembly was in session. Edmund Hogan and John Dunbar, representatives respectively from Gibson and Harrison counties, were the first. The former's death was announced on December 21, 1816, while the latter died on November 24 or 25, 1821. In both instances the legislators resolved to wear crepe armbands for one month as tokens of respect. Members also formed funeral processions for both men and marched from the State House to the burial ground in "a last melancholy service required from the living to a departed friend."[40] The similarity between these practices and the funeral rites of Freemasonry is striking and probably not accidental. When a member of the fraternal organization died, it was customary that "the brethren wear crape [*sic*] on their left arm in memory of the deceased for one month." There also was a procession "to the place of interment, where the mystic ceremonies [were] performed over the bier and grave." While there is no evidence that Edmund Hogan was a Mason, several members of the General Assembly in 1816 belonged to the order. John Dunbar, on the other hand, was a prominent Mason. He helped found Pisgah Lodge No. 5 at Corydon, and in 1818 he represented the lodge at the first meetings of the state Grand Lodge. At the time of his death, Dunbar was Junior Grand Warden in his lodge. His brothers in Corydon included Governor Jonathan Jennings, Auditor of State William H. Lilly, state printers Reuben W. Nelson and Armstrong Brandon, plus Davis Floyd, John Tipton, and William P. Thomasson, each of whom served in early sessions of the legislature.[41] It would have been natural for these men to adopt the mourning practices of their fraternity in a moment of grief.

Making Counties and Selecting a Capital

County making, the means whereby local government came into existence, was one of the more important and frequently recurring tasks facing the General Assembly during the pioneer period. It also provided a chief means of patronage since each time a county was created the legislature also elected commissioners to locate the county seat. The naming of these commissioners proved a fruitful way for lawmakers to reward friends and recognize worthy constituents.[42] The fact that the number of counties grew from fifteen in 1816 to ninety-one by 1850 indicates that county making pervaded most sessions under the first Con-

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[40] *House Journal*, 1816-17, pp. 87-88; *ibid.*, 1821-22, pp. 67-68; *Senate Journal*, 1816-17, p. 59. Subsequent sessions passed special appropriations to erect enclosures around the graves. *House Journal*, 1818-19, pp. 180-81; *ibid.*, 1823-24, p. 229; *Senate Journal*, 1818-19, pp. 113, 115.

[41] Daniel McDonald, *A History of Freemasonry in Indiana from 1806 to 1898* (Indianapolis, 1898), 31, 65-67. For the relationship between Freemasonry and the General Assembly during the pioneer period, see below, pp. 49-50, 121-23.

[42] Many bitter disputes were waged, both in the legislature and in the counties, over the location of these county seats. See Ernest V. Shockley, "County Seats and County Seat Wars in Indiana," *IMH*, 10 (1914), 1-46. For a corrected version of the Appendix to Shockley's article, see Lorna Lutes Sylvester (comp.), *"No Cheap Padding": Seventy-five Years of the Indiana Magazine of History, 1904-1979* (Indianapolis, 1980), 116-18.

stitution.[43] The guidelines on this subject were minimal: "The General assembly, when they lay off any new county, shall not reduce the old county, or counties . . . to a less content than four hundred square miles."[44] Other than this simple provision the legislature was on its own in carving up the state. In addition to petitions from private citizens who wanted their own local government, such diverse factors as economics, geography, political trade-offs, county seat rivalries, personalities, personal motivations, and sometimes just plain confusion came into play. As a result, the state was built up from south to north, with outlying districts gradually drawn into county organization, or with established counties broken into smaller units as the number of inhabitants increased.[45] Since the Constitution prescribed no form for county government, these units were almost entirely legislative creations having only those powers conferred or delegated by the General Assembly. At the first session an act passed providing that a board of commissioners must be established for the transaction of business in each county. Each board was designated a body politic with power to sue and be sued. Subsequent laws empowered commissioners to levy taxes, open and vacate roads, establish ferries, license tavern keepers, divide the county into townships, appoint overseers of the poor, and name constables and highway supervisors.[46]

The interplay between political trade-offs and county seat rivalries was illustrated in 1817 when Vanderburgh and Spencer counties were formed from parts of Warrick and Perry. These are prime examples of counties established in the older, more settled portion of the state due to wheeling and dealing by entrenched politicians. Representative Elisha Harrison took the lead in the formation of Vanderburgh County because he had contracted to build a courthouse at Evansville. Representative Ratliff Boon was induced to go along with the change with a promise that the new seat of Warrick would be named Boonville. Senator Daniel Grass, who owned extensive land in eastern Warrick, agreed when

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[43] Thirty-eight new counties were formed during the eight years at Corydon; thirteen more were added by 1831; an additional twenty-one were formed by 1837; and four more by 1850. When the pioneer period ended all counties were established as they are known today except for Newton. It was first organized in 1838 but consolidated with Jasper County in 1839. It was separately organized in 1859 as the ninety-second county. See Harold C. Feightner, "Indiana County Government," *Indiana History Bulletin*, 9 (1932), 261.

[44] Kettleborough, *Constitution Making in Indiana*, 1:118. Five of the thirteen counties represented at the 1816 Constitutional Convention wound up with less than 400 square miles of area. Some of the shortage was probably due to unintentional error, but Switzerland was reduced to 225 square miles by a method employed in 1821 when the north end of Switzerland was added to Ripley. In the words of Jacob P. Dunn, "As the General Assembly did not do this 'when they lay off any new county,' the constitution remained intact." Dunn, *Indiana and Indianans*, 1:307.

[45] For a synopsis of county formation, with citations to legislative action as reflected in the journals, see George Pence and Nellie C. Armstrong, *Indiana Boundaries: Territory, State, and County* (Indianapolis, 1933), 28-102.

[46] *Laws*, 1816-17, pp. 112-15, 115-17; *ibid.*, 1817-18, pp. 154-62, 172-76, 212-17, 256-73, 273-85, 292-96, 296-99. For an examination of county government under the 1816 Constitution, see Clyde F. Snyder, "Indiana Counties and Townships," *IMH*, 33 (1937), 130-43.

he learned that Rockport, the site of his holdings, would be the seat for Spencer County.[47]

The political influence of one individual with a vested interest was shown by the effort of Senator John Conner who platted a town in unoccupied wilderness in 1816. Conner then tried for three consecutive sessions before Fayette County was formed in 1818. The boundaries of Conner's county were the first to extend into the New Purchase and, not surprisingly, Connersville became the county seat.[48] Frederick Shoults enjoyed less lasting results than did Conner. In 1819 he formed a company known as the Proprietors of Hindostan and had himself elected chairman. In 1821 Shoults was elected as the first senator from Martin County after it was formed from Daviess County. Hindostan was designated the Martin County seat. Then Shoults went bankrupt and Hindostan was wiped out by cholera. In 1828 the General Assembly removed the county seat to Mount Pleasant and today little evidence remains of Shoults' plans for Hindostan "except the nearby burial grounds, and the roar of White River . . . ."[49] Sometimes counties came into existence as a result of popular demand after rapid settlement of a new area. An example is Owen County, formed in January, 1819, and named in memory of Major Abraham Owen, one of the heroes who fell at the Battle of Tippecanoe. It was said that John Tipton, one of the commissioners to select the site, suggested the seat for Owen be named for Spier Spencer, who also fell at Tippecanoe. Tipton's role in making counties and locating county seats helps explain why so many were named for men who fought at Tippecanoe. Tipton fought there and took over Spier Spencer's rifle company when the latter was killed. "He always afterward showed a peculiar intensity of regard for his companions on that expedition, a strong emotional feeling toward the place and the circumstances . . . ."[50]

Tipton opened a hotel and tavern in his home at Corydon in 1816. This gave him the chance to meet the notables of Indiana, several of whom became good friends. He was elected sheriff of Harrison County at the first state election and was reelected in 1818. During these same years he was a leader of the movement to form an Indiana Grand Lodge for Freemasons. In 1820 he was elected state Grand Master. Also, in that year he acquired some property in what became Bartholomew County, won a seat in the Indiana House, and introduced the act creating Bartholomew County. Tipton's activities on behalf of Bartholomew County caused a furor in 1821 when he ran for reelection. He had chaired the committee that drew the bill for the new county. Indeed, his influence caused it to be named for another of the men who fought at Tippecanoe.

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[47] *House Journal*, 1817-18, pp. 40, 61, 66, 73-74, 81, 91, 119-21; *Senate Journal*, 1817-18, pp. 78-80. See also *History of Warrick, Spencer and Perry Counties, Indiana* (Chicago, 1885), 35-42, 277-79.

[48] Thompson, *Sons of the Wilderness*, 93.

[49] Harry Quentin Holt, *History of Martin County, Indiana* (2 vols., Paoli and Oxford, Ind., 1953, 1966), 2:133-38.

[50] Charles Blanchard (ed.), *Counties of Clay and Owen, Indiana* (Chicago, 1884), 561-62; Robertson and Riker (eds.), *Tipton Papers*, 1:5.

Subsequently the county seat was located on land belonging to Tipton and Luke Bonesteel. Tipton proposed to name the site Tiptona.[51]

When these facts became known Tipton was accused of introducing a bill to further his own interests. The charges appeared in a Corydon newspaper in July, 1821, and the accused replied with an impassioned defense on August 3. "The idea is ridiculous . . . to suppose that I could influence both the senate and the house of representatives to establish a county in such an improper manner," said Tipton. Nonetheless, the evidence suggests he did just what his critics charged. Although he won reelection, the furor continued and Tiptona was changed to Columbus. When the name was changed, Tipton cancelled plans to move to the new city and it was said he vowed never again to set foot there. He also decided not to seek a third term in the Indiana House.[52] While the Bartholomew County developments were politically embarrassing, they did not halt Tipton's activities as a county maker. When he was appointed Indian agent at Fort Wayne in 1823, he became "a leading spirit in the movement for the formation of a new county." It was created on December 17, 1823, and "at the suggestion of Gen. Tipton it was provided that [it] should be known by the name of Allen, in memory of Col. John Allen" who fought at Tippecanoe.[53] In 1826, Tipton helped negotiate the treaties whereby the Miami and Potawatomi Indians surrendered sufficient land claims in northern Indiana so that the Michigan Road and the Wabash and Erie Canal projects could be started. He also helped establish the city of Logansport, through which both the road and the canal ultimately passed. Logansport was designated the seat for Cass County in 1829.[54] Only election to the United States Senate in 1831 stopped the county making of Indiana's most inveterate and prolific county maker.

The Enabling Act of 1816 provided that a grant of four sections of land would be made to the state for the location of a permanent capital at a site selected by the legislature "on such lands as may hereafter be acquired by the United States from the Indian tribes within" Indiana.[55] The implementation of this provision was one of the most important steps taken by the General Assembly during the Corydon years. The site ultimately selected was located along White River close to the center of present-day Indiana in mostly uninhabited wilderness claimed originally by the Delaware Indians. William Conner, an Indian trader who was married to a Delaware woman and often acted as interpreter in dealings

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[51] See sketch of Tipton in "Introduction," *Tipton Papers*, 1:3-53. For the maneuvering on Bartholomew County, *House Journal*, 1820-21, pp. 20, 60, 72, 78, 84, 110, 132-33, 144-45, 204-5, 211-12, 215-16, 235-36.

[52] Tipton to the Citizens of Harrison County, August 3, 1821, in Robertson and Riker (eds.), *Tipton Papers*, 1:282-91; George Pence, "Makers of Bartholomew County," *IMH*, 22 (1926), 73; *History of Bartholomew County, Indiana* (Chicago, 1888), 313-14; Pence and Armstrong, *Indiana Boundaries*, 36-37.

[53] Robert Stoddart Robertson, *Valley of the Upper Maumee River* . . . (2 vols., Madison, Wis., 1889), 1:374-77. See also *House Journal*, 1823-24, pp. 11, 21, 43, 49, 62, 79.

[54] Robertson and Riker (eds.), *Tipton Papers*, 1:21, 33, 49; Thomas B. Helm (ed.), *History of Cass County, Indiana* (Chicago, 1886), 265-69.

[55] Kettleborough, *Constitution Making in Indiana*, 1:76.

with that tribe, had built a cabin on the west fork of the river. He and his brother, state Senator John Conner, played leading roles in the sequence of events that made selection of the site possible. Before the sequence ran its course the General Assembly went into its first secret sessions; the New Purchase was negotiated whereby title to the central third of the state was acquired from the Indians; and the first major dispute arose between the executive and the legislative branches.[56]

A proposal in December, 1817, to build a road across the Indian country set the sequence in motion. Representative William Graham asked for a closed session on December 26 to introduce a subject requiring secrecy. A joint committee was formed in response and on January 19, 1818, with the lobbies of both houses cleared and the doors closed, Senator John Conner made "a report of the secret committee, with both houses concurring, and upon which certain resolutions were adopted."[57] There is no hint in the journals for the 2nd session about what these proceedings involved, although the veil was lifted partially the following year when the *House Journal* noted that they were "relative to the extinguishment of Indian title to land . . . ."[58] The fact that a treaty between the Delaware Indians and the United States followed in October, 1818, indicates the sessions might have dealt with the acquisition of title to central Indiana. The stage was thus set for the 4th General Assembly to pass "An Act appointing Commissioners to select and locate a scite [*sic*] for the permanent seat of government."[59] The act named ten commissioners who were "to meet at the house of William Conner" on a day to be named by the governor.[60] All but William Prince showed up around May 22, 1820, the date proclaimed by Governor Jennings, who was also present. On May 27 the commissioners chose a site at the confluence of Fall Creek and the west fork of White River, a choice they ratified on June 7. They submitted their report to the 5th General Assembly, which accepted it in December, 1820.[61]

After approving the location the assembly moved to name the proposed capital and appointed commissioners to lay it out. When Senator William Polke

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[56] Thompson, *Sons of the Wilderness*, 95-101, 103-17. For the dispute between Governor Jennings and the General Assembly, see below, pp. 54-55.

[57] For the road proposal, *House Journal*, 1817-18, pp. 88, 100, 115; secret sessions, *ibid.*, 93, 195, and *Senate Journal*, 1817-18, pp. 59-60, 142-43.

[58] *House Journal*, 1818-19, pp. 7-8.

[59] All references to this act in the legislative journals used the archaic spelling for site (with a "c"), although the act was published in the *Laws* with the modern spelling. *House Journal*, 1819-20, pp. 74, 232, 265; *Senate Journal*, 1819-20, pp. 139, 235, 236.

[60] *Laws*, 1819-20, pp. 18-20. The commissioners included John Tipton and John Conner, plus Frederick Rapp of Posey County, William Prince of Gibson, George Hunt of Wayne, Stephen Ludlow of Dearborn, John Gilliland of Switzerland, Joseph Bartholomew of Clark, Jesse B. Durham of Jackson, and Thomas Emerson (Emison) of Knox County.

[61] The site consisted of sections 1 and 2, and fractional sections 2 and 11, and part of fractional section 3, in Township 15 North, Range 3 East, of the New Purchase. For commissioners' report, *Senate Journal*, 1820-21, pp. 144-46; Jennings' proclamation, Corydon *Indiana Gazette*, March 23, 1820; selection process, Thompson, *Sons of the Wilderness*, 117-21; John Tipton's Journal, Robertson and Riker (eds.), *Tipton Papers*, 1:195-210.

reported the bill he left a blank for the name. Representative Jeremiah Sullivan recalled that "during the two or three days . . . spent . . . to fill that blank there were [*sic*] some sharpness and much amusement." There was no lack of suggestions. As early as December, 1819, the Vincennes *Centinel* reported that Demopolis would be the name. Other proposed names included Tecumseh, Concord, and Suwarro. On the third day Sullivan moved for Indianapolis, a name he thought especially appropriate because the Greek word for city (*polis*) meant "center of." Samuel Merrill seconded the proposal and it "gradually commended itself to the committee, and was accepted." Although the name was generally well-received, not everyone liked it. The Vincennes *Centinel* denounced the naming as "one of the most ludicrous acts . . . of the sojourners of Corydon."[62]

Former Lieutenant Governor Christopher Harrison served on the commission that planned Indianapolis. He engaged Alexander Ralston and Elias P. Fordham to survey the capital site and plat a city. Since Ralston had helped plat Washington, D.C., it is likely his design for Indianapolis was a modification of the earlier survey. The city as projected by Ralston radiated outwards from a Governor's Circle in the center to a mile square with streets named after nearly every state in the Union. Ralston reportedly said "it would make a beautiful city, if it were ever built." The Indiana Senate agreed when Ralston presented that body with a map in 1822. A resolution "to thank Alexander Ralston for the elegant plat of Indianapolis" passed unanimously.[63] By the time that the Senate had a plat for Indianapolis in hand, lots were already being sold by an agent of state.[64] An act in 1822 specified that "square number fifty eight in the town of Indianapolis . . . be . . . the seat of Justice for said new county of Marion." It also provided that $8,000 from the Indianapolis Fund would go towards a courthouse that would be used by the General Assembly until a State House was completed.[65]

With the creation of Marion and other counties in the New Purchase at the 6th session, the 7th session had to face the question of whether these counties could have representation. Some legislators, including Speaker of the House General (his name, not a title) Washington Johnston, felt no legal representation was possible for the New Purchase until a census was taken in 1825. Nonetheless, a bill adding one member to each house from the new counties passed handily.[66]

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[62] Vincennes *Indiana Centinel*, December 25, 1819, January 13, 1821; Woollen, *Biographical and Historical Sketches*, 367-68; Joseph Herman Schauinger, "Jeremiah C. Sullivan, Hoosier Jurist," *IMH*, 37 (1941), 217-21. From 1837 to 1846 Sullivan was a justice of the Indiana Supreme Court.

[63] *House Journal*, 1820-21, pp. 282-83; *Senate Journal*, 1822-23, p. 20. A photostatic copy of the plat is in Dunn, *Indiana and Indianans*, 1:362.

[64] The act for laying out the town also provided for the sale of lots by an agent and stated "The monies . . . shall remain in the treasury and constitute a fund for the special purpose of erecting the necessary public buildings of the state." *Laws*, 1820-21, pp. 44-53. For the work of the agents, see Donald F. Carmony, "Genesis and Early History of the Indianapolis Fund, 1816-1826," *IMH*, 38 (1942), 22-25. Carmony called this fund "the first public building fund of the state."

[65] *Laws*, 1821-22, pp. 135-39.

[66] *House Journal*, 1822-23, pp. 81, 166, 222, 257-58, 273-74; *Senate Journal*, 1822-23, pp. 134, 141, 142.

As a result, Senator James Gregory and Representative James Paxton were seated at the 8th session and introduced the two bills that facilitated the move to Indianapolis. The first specified that the 9th session would convene in January, 1825, instead of December, 1824. The second, "An Act establishing the permanent Seat of Government . . . ," transferred the capital to Indianapolis as of January 10, 1825, and reserved use of the Marion County courthouse to the General Assembly for fifty years. This act also appointed Treasurer of State Samuel Merrill to superintend the move and directed him to keep "a fair and exact account of the expenses . . . ."[67]

In October, 1824, four four-horse wagons left Corydon carrying Merrill and his family with the state treasury, along with the state printer and his family with equipment to start a newspaper. It took eleven days to cover the 125 miles to Indianapolis. Merrill's reckoning showed expenses of $118.06, with $52.52 deducted for the sale of furniture, making $65.54 the net cost of removal. The 9th General Assembly appropriated $60.54 to reimburse the treasurer, deducting $5 presumably because his wife and three daughters rode in one of the wagons at state expense. Merrill also was allowed $100 for his personal trouble and expenditures. His granddaughter stated "When one recalls that this sum was equal to a year's salary in his office . . . it seems generous indeed, and quite offsets the deduction of $5.00."[68]

Money and Banking

Samuel Merrill's difficulties in moving to Indianapolis underscored the primitive nature of travel and finance in pioneer Indiana. When state government began, the majority of residents were subsistence farmers who had come from south of the Ohio River seeking improved economic opportunity. In 1816 they numbered more than 63,000 people concentrated in fifteen counties embracing approximately the southern third of the state. The rest of Indiana remained mostly wilderness claimed by Indians. The Ohio River was the major avenue of commerce, with only Indian trails and a few traces to provide overland transportation. With specie (gold and silver coin) in extremely short supply and credit hard to come by, what these early settlers most needed was an expansive currency and improved access to markets.[69]

Once statehood was achieved population grew rapidly: there were more than 147,000 people by 1820; in 1840, 685,866; and nearly one million by 1850.[70]

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[67] *Laws* (revised), 1823-24, pp. 370-72. The bills engendered intense opposition from Corydon residents who did not want the capital moved. Gregory and Paxton were insulted and threatened with physical attacks for their role. See sketch of Gregory in Woollen, *Biographical and Historical Sketches*, 426-29; obituary of Paxton in Indianapolis *Indiana Journal*, April 9, 1829.

[68] Samuel Merrill's statement of expenses to the speaker of the House (1824), Indiana History Mss., Lilly Library, Indiana University, Bloomington; Katharine Merrill Graydon, "The First State Treasury," *Yearbook of the Society of Indiana Pioneers* (1928), 38-39. *Senate Journal*, 1825, pp. 7-8, and Graydon both give a figure of $60.55 as the amount of reimbursement.

[69] Waldo F. Mitchell, "Indiana's Growth, 1812-1820," *IMH*, 10 (1914), 369-95.

[70] Population trends during the pioneer period, with citations to census data, are covered in John D. Barnhart and Donald F. Carmony, *Indiana: From Frontier to Industrial Commonwealth* (4 vols., New York, 1954), 1:172, 175, 178-79, 408; 2:531-33.

To accommodate this growing population, the federal government steadily moved the line of white settlement northward. The New Purchase treaties of 1818 opened central Indiana to settlement and the expansion of the National Road beyond Wheeling, Virginia, approved by Congress in 1820, spurred interest in the region. Once the road was surveyed through Indianapolis and as far west as the Illinois line by the end of 1827, this interest intensified.[71] The move to Indianapolis itself stimulated growth and brought repeated calls for better roads to and from the capital city. By 1830 central Indiana alone numbered 151,000 residents. Northern Indiana was first opened to settlement as a result of two developments in the mid-1820s: completion of the Erie Canal (1825) made the state more accessible to easterners and foreign immigrants and treaties with the Miami and Potawatomi Indians (1826) made land available for a canal and a road through the region. These developments attracted permanent settlers as well as prospective laborers, speculators, and assorted opportunists. Additional treaties were required to extinguish Indian titles and final removal was not accomplished until the mid-1840s.

Each migration into previously unsettled areas intensified demands for expanded credit (mainly for land purchases) and better transportation. Farming remained the dominant occupation throughout the pioneering period but by the late 1840s it had advanced from the subsistence to the surplus level thanks to the development of labor-saving machinery. With the appearance of commercial agriculture, sound banking and improved transportation—especially to eastern markets—became even more important.[72] In this context, money, roads, improved waterways, and eventually railroads inevitably preoccupied pioneer legislators. Of these money was foremost; without it the people could not prosper and state government could not function.

Although there always has been a close relationship between money and government, most people and many governments have failed to understand how money works. This misconception was especially prevalent when Indiana became a state because, as Bray Hammond pointed out, in the aftermath of the War of 1812 the process of industrialization made money and banking even more mysterious than before. Enterprise "had placed such subtle instrumentalities as credit, accounting, and the corporate forms of organization at the disposal of people unaccustomed to such things," Hammond wrote. "An economy in which barter had been important and financial transactions had been wholly subordinate to the exchange of goods was giving way to an economy concerned more and more with obligations, contracts, negotiable instruments, equities, and such invisible abstractions."[73] For the legislature in frontier Indiana, representing an

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[71] For an account of the importance of the National Road on Indiana's development, see Lee Burns, *The National Road in Indiana* (Indianapolis, 1919), 209-37.

[72] For national developments in transportation and agriculture during this period, see George Rogers Taylor, *The Transportation Revolution, 1815-1860* (New York, 1951), and Paul Wallace Gates, *The Farmer's Age: Agriculture, 1815-1860* (New York, 1960).

[73] Bray Hammond, *Banks and Politics in America: From the Revolution to the Civil War* (Princeton, N.J., 1957), 274.

unsophisticated society with great economic and social needs, such abstractions proved nearly ruinous.

Before statehood the banking needs of Indiana had been met by two private banks: the Bank of Vincennes and the Farmers' and Mechanics' Bank at Madison, both chartered in 1814 by the territorial legislature. Article 10 of the 1816 Constitution forbade new banks but added that the General Assembly could establish a State Bank and branches. Directors named by the legislature would locate the branches. The article also confirmed the charters of the Bank of Vincennes and the Farmers' and Mechanics' Bank and stipulated that either might be designated as the State Bank while the other might become a branch.[74] The General Assembly became involved when the first session implemented Article 10 with an act adopting the Bank of Vincennes as the State Bank of Indiana. In addition to the parent bank, up to fourteen branches could be established and the stockholders and directors included enough politicians that control of the legislature was assured.[75] The main intent of the legislature in establishing the State Bank was to procure a circulating medium for a frontier society short of specie. For two years the bank appeared to work; its paper circulated freely with few questions asked. At the same time, the constitutional ban on competing banks did not stop the operations of private money institutions, some of which enjoyed impressive legislative support.[76] The most notorious was the Steam Mill Company at Vincennes, begun in 1817 to operate a steam-powered sawmill. The company issued bills of credit similar to bank notes and most of its owners were stockholders in the State Bank. For example, Nathaniel Ewing was president of the bank and agent for the Steam Mill Company; Judge Benjamin Parke was an agent for both.[77] Between the State Bank and the private institutions, the state was flooded with paper unsupported by specie. Then, in 1819, a financial

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[74] Kettleborough, *Constitution Making in Indiana*, 1:115.

[75] *Laws*, 1816-17, pp. 185-91. See also *House Journal*, 1816-17, pp. 89, 106-7, 116-17; *Senate Journal*, 1816-17, pp. 64, 72-73. Only three branches—at Brookville, Corydon, and Vevay—were established, as the Farmers' and Mechanics' Bank at Madison chose to remain outside the State Bank system. According to Logan Esarey, men who were supposed to organize branches included such prominent members of the early sessions as David H. Maxwell, Marston G. Clark, Daniel Grass, Ratliff Boon, Thomas Givens, and William Prince. Logan Esarey, *State Banking in Indiana, 1814-1873* (Bloomington, Ind., 1912), 221-42, bank directors, 227, 236, 238.

[76] An example of private banks "which issued freely and redeemed at their pleasure . . ." was the Franklin Bank established about 1818 at Brookville. Its founders included Enoch D. John, who served in the House from 1819 to 1821, and Noah Noble, the future governor. John and Noble were also directors of the Brookville branch of the State Bank. John file, English Legislator Collection, Indiana Historical Society Library, Indianapolis; Esarey, *State Banking in Indiana*, 240.

[77] Esarey, *State Banking in Indiana*, 232-38. When Senator Ezra Ferris introduced a bill to prevent private banking in 1818, Speaker Amos Lane promised a constituent that Ferris' bill would have "its head . . . cut off in our house." Lane added that "our Bank bill has . . . all we could ask. I drew up the bill myself." Lane's bill provided that a State Bank branch be established at Lawrenceburg, with Lane and David Rees as directors, in lieu of a branch at Madison. Ferris' bill failed in the House; Lane's bill became law. Lane to David Rees, December 26, 1817, Lane Papers, Indiana Division, Indiana State Library, Indianapolis; *House Journal*, 1817-18, p. 98; *Senate Journal*, 1817-18, pp. 55, 58, 60, 94.

crisis in England triggered a severe panic. The Bank of the United States, to which the State Bank was heavily indebted, avoided bankruptcy by sharply contracting its loans.[78] This action made matters much worse in Indiana as prices collapsed, farm purchasing power nearly ceased to exist, and the state was left with almost no circulating medium. The paper of the State Bank became deeply depreciated and eventually worthless. Since the 3rd session of the General Assembly had authorized State Bank notes as acceptable for debts owed the state, the treasury faced bankruptcy.[79]

Perhaps no economic crisis in American history so suddenly prostrated the agricultural part of the economy. In Indiana, the people blamed the State Bank for their plight and when citizen groups began to resolve that they would "not support for office any man . . . connected with a bank in any way," politicians took note.[80] Samuel Milroy chaired an investigation during the 4th session of the General Assembly and got nowhere because bank officers were reluctant to cooperate. Milroy also introduced a bill prohibiting anyone holding a state office from holding an office in any bank. It failed to pass on third reading. But a resolution did pass requiring that any bank refusing to redeem its notes in specie must forfeit its charter.[81]

When economic conditions did not improve by August, 1820, over one third of the incumbent legislators lost their seats. Friends of the State Bank remained strong enough, however, that little was done at the ensuing session to strengthen the state's control of its bank. The House investigated the Corydon branch and discovered that $10,000 had been transferred from the Bank of Vincennes to the Steam Mill Company through that branch. State Treasurer Daniel C. Lane, a branch director, denied knowing about this "loan" and the House took no action.[82] The House also refused bills prohibiting the issuance of irredeemable currency and making it a crime to falsify bank records.[83] A joint resolution approved on January 8, 1821, showed just how dire the financial plight of the state was. The resolution authorized Lane to dispose of $99 worth of notes of various denominations drawn on several out-of-state banks "at the best price that can be had and to report the result" to the next General Assembly.[84] No evidence was found that Lane disposed of the notes.

The decision of the Bank of Vincennes to close its doors in 1821 boded additional ill for the state. The bank had held over $30,000 in state bonds as collateral on loans. These bonds were turned over to the United States treasury

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[78] For the federal bank from 1816 to 1822, see Hammond, *Banks and Politics in America*, 251-85.

[79] *House Journal*, 1818-19, pp. 36, 39.

[80] Meeting of citizens of Washington County reported in Vincennes *Western Sun*, June 5, 1819.

[81] *House Journal*, 1819-20, pp. 65-66, 127-29, 165, 230-31, 112.

[82] *Ibid.*, 1820-21, pp. 35, 36, 47-49, 294. The Steam Mill owed the State Bank $91,000 when the former burned to the ground under suspicious circumstances on February 10, 1821. Esarey, *State Banking in Indiana*, 236.

[83] Esarey, *State Banking in Indiana*, 240-41, 270-71.

[84] *Laws*, 1820-21, p. 135.

as part of the bank's settlement with the federal government. If the treasury had demanded payment, Indiana would have been an additional $30,000 in debt.[85] In this situation the governor called the legislature into session earlier than usual in the hope members "may possibly be meditating upon some wise and efficient measure which has not yet entered my brain."[86] The ensuing session spent an enormous amount of time on money and banking but accomplished little beyond passing a bill authorizing *quo warranto* proceedings against the Bank of Vincennes. Although a Knox County jury subsequently found the bank guilty of violating its charter, the verdict was partially reversed in 1822 on appeal to the Indiana Supreme Court. The high court held that the state could order dissolution but could not hold directors liable for losses. The bank's debtors were discharged and its creditors left without remedy.[87]

Much of the blame for the bank's failure fell on the state treasurer, Daniel C. Lane. State coffers were filled with worthless paper issued by the defunct bank, money that Lane by law had to accept in payment for debts due the state.[88] In 1822, after a spirited contest, the lawmakers voted 32 to 25 to replace Lane with Samuel Merrill.[89] After an examination of the state's books, Merrill reported to the 8th session in 1823 that "errors have crept into the books . . . by reason of which the real situation of the financial concerns of the state does not appear . . . ."[90]

When the last session convened at Corydon the state's financial embarrassment was still critical. In fact, cash on hand was so depleted that it was uncertain if members would be paid their per diem and travel costs. Early in the session, when the House ordered Samuel Merrill to try to arrange a loan and report back before adjournment, the treasurer turned to a religious commune

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[85] R. Carlyle Buley, *The Old Northwest: Pioneer Period, 1815-1840* (2 vols., Indianapolis, 1950), 1:595-96. The state was spared when the United States treasury permitted it to buy back these bonds with the worthless notes of the State Bank.

[86] Jonathan Jennings to Mr. J. M. of Kentucky, October 25, 1821, in Esarey (ed.), *Messages and Papers of Jennings, Boon, Hendricks*, 155.

[87] *House Journal*, 1821-22, pp. 327-30, 333; *Senate Journal*, 1821-22, p. 243. For the court decision on the bank, Esarey, *State Banking in Indiana*, 240-41. Historians have been less kind to the bank than the courts were. Esarey stated that some of those involved with the bank were "dishonest—embezzlers; . . . [and] the leading men of the state." *Ibid.*, 240. Buley, *Old Northwest*, 1:596-97, concluded that some associated with the bank were "tricksters" and because of them "Indiana had to pay the price for lack of understanding of the laws of economics, as well as corrupt politics and wholesale violation of the rules of common honesty."

[88] In 1823 the House authorized a suit for defalcation against Lane, but the Senate tabled the resolution. *House Journal*, 1822-23, pp. 241-42, 245-46, 269, 285. For allegations against Lane, see "Extracts from Corydon Newspapers, 1820 [*sic*]-1838," bound typescript in Indiana Division, ISL.

[89] See handwritten note by William H. English in Daniel C. Lane file, Legislator, IHSL, with an explanation of Lane's defeat.

[90] Merrill also said "Justice to the late treasurer, requires that I should add, that he does not appear to be a gainer by the mistakes alluded to." *House Journal*, 1823-24, p. 54. The state brought suit against Lane in 1824 but nothing came of it. Corydon *Indiana Gazette*, July 7, 21, 28, 1824. In 1827 Lane was elected to the Senate from Harrison County and died January 6, 1830, while the 14th General Assembly was in session.

at Harmony in Posey County that had prospered despite the Panic of 1819.[91] Armed with a letter of introduction from Governor William Hendricks to Frederick Rapp, the adopted son of Harmony's founder, George Rapp, Merrill set out in December, 1823, to ask for a $5,000 loan.[92] At the time the interest of Indiana in a loan coincided with the self-interest of the communalists along the Wabash. George Rapp had decided to sell his holdings and take his followers back to Pennsylvania. Since a solvent state government would increase the worth of Harmony in the eyes of prospective buyers, Frederick Rapp loaned the state the money payable at 6 per cent interest by December, 1827. Merrill reported the particulars to an anxious legislature in January, 1824, and added "the cash on hand will . . . pay the necessary expenses of the members of this place."[93]

The failure of the Bank of Vincennes left Indiana in the mid-1820s with a motley and depreciated "foreign" currency issued by the banks of other states. In addition, there were the notes of the Second Bank of the United States. Under this bank's leadership the nation moved in the late 1820s toward a uniform currency and in Indiana the federal bank supplied most of the circulating paper. Its notes and its policies created an atmosphere of monetary stability, brought general prosperity accompanied by rapid population growth, and engendered the enthusiasm for internal improvements that marked the era.[94] Then, just as the Indiana General Assembly approved proceeding with the Wabash and Erie Canal in 1832, President Andrew Jackson decided to kill the national bank. State Treasurer Samuel Merrill, who had guided the state's recovery from the Panic of 1819, was convinced Jackson's stand on the bank "can hardly fail" to deliver Indiana's electoral vote to Henry Clay. Merrill felt this was the case because all political factions in the state supported the bank. Nonetheless, Merrill added a word of caution: "on such matters Indiana cannot be calculated upon with certainty."[95] This proved a well-founded reservation since Jackson carried Indiana in 1832 while majorities favoring a new state bank were elected to both houses of the General Assembly. Jackson proceeded to destroy the federal bank, an

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[91] Harmony was possibly the only community in Indiana in 1823 in a position to help. A court assessment in 1819 set the value of its holdings at $370,000; in 1820 its manufactured goods were valued at $50,000; by 1824 its commerce reached to twenty-two states and ten foreign countries. Donald E. Pitzer and Josephine M. Elliott, "New Harmony's First Utopians, 1814-1824," *IMH*, 75 (1979), 227, 233-34, 236. For the unique relationship between Harmony and the General Assembly, see below, pp. 138-39.

[92] William Hendricks to Frederick Rapp, December 19, 1823, in Karl J. R. Arndt (ed.), *A Documentary History of the Indiana Decade of the Harmony Society, 1814-1824* (2 vols., Indianapolis, 1975, 1978), 2:754. Frederick Rapp served as business manager and liaison to the outside world for the commune.

[93] Samuel Merrill to Frederick Rapp, October 4, 1823, *ibid.*, 2:691-92, Frederick Rapp to Merrill, October 25, 1823, *ibid.*, 2:701-2. See also Merrill to Speaker David H. Maxwell, *House Journal*, 1823-24, pp. 285-87. The principal plus $734 interest was paid by December, 1826. Arndt (ed.), *Documentary History*, 2:754; *Senate Journal*, 1825, p. 29; *ibid.*, 1826-27, pp. 40, 44.

[94] For the effect of the policies of the Second Bank of the United States in Indiana, see William Gerald Shade, *Banks or No Banks: The Money Issue in Western Politics, 1832-1865* (Detroit, 1972), 28-31.

[95] Merrill to Reverend David M. Merrill, August 15, 1832, Samuel Merrill Papers, IHSL.

action that one student of his presidency saw as fostering speculation, hindering the development of sound credit, and leading directly to the currency chaos characterizing succeeding decades.[96] The most immediate result came to Indiana in 1834 when the General Assembly chartered the Second State Bank.

Agitation for a new bank began during the 1832 state campaign and both houses considered bank bills during the 1832-1833 session. Representative George H. Dunn, a Clay man from Dearborn County, introduced the bill that almost became law.[97] Dunn's bill provided for a principal bank and branches that were in effect separate corporations. John Ewing, a Whig from Knox County, introduced the Senate bill which would have established a bank in Indianapolis and branches throughout the state all responsible to each other. Since the people were overwhelmingly in favor of a new state bank, many Jackson supporters and most Clay men favored action. The Indianapolis *Indiana Democrat* indicated where Jacksonians stood when it noted that a substitute for the federal bank was necessary "and to the wisdom of the legislature the people will look for a remedy."[98] Some Jacksonians, who personally opposed a state bank but believed their constituents wanted one, voted for Dunn's bill, which passed by a margin of 42 to 29 on January 18, 1833.[99] David V. Culley, a pro-Jackson editor from Lawrenceburg, led the effort for Dunn's bill in the Senate.[100] Culley was helped by Levi Jessup, a Whig from Hendricks County, who voted for Dunn's bill despite confessing ignorance on the subject of banking. "I shall be glad of instructions on this important Subject from men who, from being long conversant in money matters, are more competent to judge, than I can pretend to be," Jessup wrote a constituent before voting in favor of the House bill.[101] The bill's fate was decided by Senator Calvin Fletcher, a Whig from Indianapolis, who favored John Ewing's bill. Fletcher resigned his seat rather than vote for a measure he considered unconstitutional even though his constituents demanded a bank. "I have been favorable to '*a State Bank & Branches*' as provided by our constitution," Fletcher wrote in his diary, "but could not support a charter

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[96] Glyndon G. Van Deusen, *The Jacksonian Era, 1828-1848* (New York, 1959), 86. Van Deusen concluded that "The economic development of the United States along sound and constructive lines was clearly hindered by the destruction of the Bank." The most complete account of Jackson's war on the bank is Hammond, *Banks and Politics in America*, 326-450.

[97] A colleague described Dunn as the "head, heart and hand" of the bill, "our Nestor in counsel, Ulysses in debate, and Ajax Telamon in the field." See extracts from a letter by a member of the legislature in Indianapolis *Indiana Journal*, January 23, 1833; Dunn file, Legislator, IHSL.

[98] "State Bank," reprinted from Indianapolis *Indiana Democrat*, in Vincennes *Western Sun*, December 22, 1832. Wisdom on the banking issue was essential to success in the election of 1832. Henry Brady, a pro-Jackson, anti-bank incumbent from Marion County, claimed he lost because he did not understand banking. Brady remedied his deficiency in a hurry: "I came across a book on banking and bought it, and studied it up." The book informed Brady well enough that in 1833 he ran against the same opponent on the same issue and won. Brady file, Legislator, IHSL.

[99] *House Journal*, 1832-33, pp. 396-412, 434-36. See also statements of Lewis H. Sands (Putnam County) and Allen Crisler (Franklin County) in Indianapolis *Indiana Journal*, January 23, 1833.

[100] For an example of Culley's stand, see Lawrenceburg *Indiana Palladium*, September 22, 1832.

[101] Jessup to Samuel Moore, January 10, 1833, Moore Papers, Indiana Division, ISL.

for *ten independent Banks* . . . ."[102] Fletcher's resignation caused the House bill to fail on a tie vote in the Senate.

When the legislature adjourned without passing a banking act, petitions were circulated urging Governor Noah Noble to call a special session.[103] Noble refused but majorities favoring a bank were elected to both houses in August, 1833, and the legislature that met in December lost little time in putting together a bank charter. The measure had bipartisan support and to a large extent the bank it established remained above the pressures of politics.[104] Calvin Fletcher's objections were met by a provision that ten branches—later increased to thirteen—would be mutually liable for any branch that failed. The branches would be known collectively as the State Bank of Indiana and the state was to own one half of the capital stock. A State Bank Board, composed of a president and four directors elected by the legislature and one director selected by each of the branches, would conduct periodic examinations to ensure compliance with the charter.[105] In effect, the charter ensured that the new bank would avoid the pitfalls and more reckless practices of the first State Bank. Samuel Merrill resigned as state treasurer to accept election as first president while Calvin Fletcher and Hugh McCulloch were named directors respectively of the Indianapolis and Fort Wayne branches. "I had no practical knowledge whatever of banking," McCulloch said of his appointment. But under the leadership of Merrill and his successor, Democrat James Morrison, McCulloch learned the business well enough to serve as a director until the bank's charter expired in 1857. In Logan Esarey's estimate, the work of the directors "was beyond criticism" as the bank survived the Panic of 1837 and the concomitant collapse of the state's internal improvement system.[106] The Second State Bank monopolized banking in Indiana until 1852. It was surprisingly successful at a time when political corruption was rife in the state and when most western states were operating with extremely weak banking systems. Favored by able management, the bank flourished from the beginning, serving as an efficient fiscal agent of state government and giving needed help to farmers and merchants. When it concluded business in 1857 the bank retired its circulation,

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[102] *Senate Journal*, 1832-33, pp. 354, 380-92, 460-62. See also Gayle Thornbrough, Dorothy Riker, and Paula Corpuz (eds.), *The Diary of Calvin Fletcher* (9 vols., Indianapolis, 1972-1983), 1:189, emphasis in the original. Regarding the resignation, William H. English stated that Fletcher's "neighbors . . . were very much offended . . . and said [Fletcher] was ruining the prosperity of the State . . . ." Fletcher never entered political life again. Fletcher file, Legislator, IHSL.

[103] For examples of petitions and editorial opinion on a special session, see Vincennes *Western Sun*, March 23, 1833; Indianapolis *Indiana Democrat*, March 2, 16, 1833; Brookville *Inquirer*, March 22, 1833.

[104] James H. Madison, "Business and Politics in Indianapolis: The Branch Bank and the Junto, 1837-1846," *IMH*, 71 (1975), 1-20. Madison analyzes the bipartisan nature of the act and shows how the Indianapolis branch weathered most political storms.

[105] *Laws*, 1833-34, pp. 12-38.

[106] Hugh McCulloch, *Men and Measures of Half a Century* (New York, 1888), 113-14; Esarey, *State Banking in Indiana*, 257. R. Carlyle Buley described the leaders of the Second State Bank as men "of a different caliber from those who were trusted with handling the funds of the state. Not even the mismanagement and derelictions of the fund commissioners could drag down the State Bank." Buley, *Old Northwest*, 2:285.

met all its obligations, and showed a surplus of more than $1,000,000. In addition the bank had paid annual dividends of from 11 to 22.5 per cent.[107]

Internal Improvements to 1836

The success of the Second State Bank marked a solid accomplishment in monetary matters by the General Assembly during the pioneer period. But this success did not save that body from permanent association with fiscal failure. The collapse of the internal improvements system conceived and nurtured by legislative fiat in the 1830s led to bankruptcy, repudiation, and destruction of the state's credit. The resultant financial plight during the 1840s was a major factor in calling a second constitutional convention in 1850 and ensured that the lasting popular impression of the General Assembly for the pioneer era would be one of fiscal irresponsibility.

When enthusiasts for a canal around the rapids in the Ohio River at Jeffersonville convinced the legislature in 1816 to incorporate the Ohio Canal Company, Indiana embarked on its first internal improvement project as a state.[108] The improvement was one much sought by the citizenry and legislators, particularly in southern Indiana, since the rapids impeded navigation on the state's main artery of commerce. When the project failed to attract enough capital to make a start, the legislature passed a second act in 1818 providing that $100,000 could be raised by lottery if half the proceeds were used to buy stock in the company for the state.[109] The lottery meant resort to a game of chance in spite of another law that imposed a fine on "persons . . . playing at any game or wager." And the results were dismal, with just over $2,500 raised for the company.[110] Spurred by great expectations from the lottery, construction did get underway but little progress was made: "A few rods were dug a few feet deep and the enterprise came to a dead stop."[111] It remained at a dead stop despite repeated exhortations from Governors Jennings and Hendricks in their annual messages. All efforts to revive the project failed and in 1825, when Kentucky secured federal help to build a canal on the Louisville side, Indiana's first attempt at internal improvement ended "after much sound and fury signifying nothing capable of floating a boat."[112]

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[107] Esarey, *State Banking in Indiana*, 247-64; William F. Harding, "The State Bank of Indiana," *Journal of Political Economy*, 4 (1895), 1-36.

[108] *House Journal*, 1816-17, pp. 109, 116; *Senate Journal*, 1816-17, p. 86; *Laws*, 1816-17, pp. 220-28. A succinct, well-written account of the Ohio Falls project is Paul Fatout, *Indiana Canals* (West Lafayette, Ind., 1972), 1-21. See also Logan Esarey, *Internal Improvements in Early Indiana* (Indianapolis, 1912), 65-69.

[109] *House Journal*, 1817-18, pp. 206, 212-13; *Senate Journal*, 1817-18, pp. 155, 163.

[110] See "An Act for the prevention of gaming," *Laws*, 1816-17, pp. 92-98. The lottery scheme was published in the Corydon *Indiana Gazette*, February 6, 1819. See "Extracts from Corydon Newspapers, 1820 [*sic*]-1838," Indiana Division, ISL. See also "Report on Jeffersonville Ohio Canal," Corydon *Indiana Gazette*, January 13, 1820, *ibid.*

[111] *History of Dearborn, Ohio and Switzerland Counties, Indiana* (Chicago, 1885), 1032-33.

[112] Fatout, *Indiana Canals*, 21.

The failure to provide an Ohio Falls Canal by enacting laws did not dampen legislative enthusiasm for such undertakings. Indeed, "internal improvements" became a magic phrase that led the General Assembly to fix attention on ever grander and more expensive schemes to remedy nature's shortcomings. Congress had provided in the Enabling Act that 5 per cent of the receipts from the sale of public lands in Indiana would be set aside for the support of internal improvements such as roads or canals. Two per cent would be used to finance interstate projects such as the National Road. Three per cent would be given to the state to be used as the legislature prescribed. This so-called Three Percent Fund thus became the basis for almost all early improvement efforts and was invoked alike by proponents of waterways and roads.

A report on improvement of the Wabash River by a House committee in January, 1824, illustrated how advocates of water transport relied upon the fund. Thomas H. Blake, who represented the lower Wabash counties of Parke and Vigo, felt his report would be "received with peculiar pleasure by . . . friends of internal improvement . . . ." Furthermore, if the committee's recommendations became law, there would remain "no serious obstructions in the river requiring legislative notice." Clearing the Wabash could be accomplished by excavating a channel around obstructions and, more importantly, the improvement could be accomplished at little or no cost:

> No appeal need be made to the patriotism of the people for contributions, no extraordinary measures need be resorted to either directly or indirectly imposing upon them a tax, for in the opinion of your committee, it is only necessary to appropriate a portion of the three per cent. fund, insignificant in amount when compared with the importance of the object, and as much if not more due to this than to any other work of internal improvement which could be undertaken.

Blake thus articulated the sentiment of many early advocates of improvements: the Three Percent Fund was intended primarily to fund the project they championed at the moment. He admitted that lawmakers who supported roads instead of waterways might raise "visionary objections, which find their account in the prejudiced minds of those who are hostile to enterprize, or criminally careless on the subject." But if such people would only reflect "that providence has marked the course of this noble stream through the most fertile portions of the state . . . ," Blake concluded that they would enact the legislation recommended by his committee. Representative Blake did not get the legislation he wanted. Although the session approved an act for "opening and amending . . . navigation" along the lower Wabash, the law was silent on how the improvement was to be accomplished. Instead, it directed the governor to appoint a commissioner who would study the matter and make recommendations, preferably in cooperation with a similar commissioner named by Illinois.[113]

Neither the failure to complete projects like the Ohio Falls Canal nor the failure to win majority support for proposals like Thomas Blake's in 1824 damp-

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[113] Report on navigation of the Wabash, *House Journal*, 1823-24, pp. 198-202; *Laws*, 1823-24, pp. 82-84.

ened legislative enthusiasm for internal improvements. In 1825, when New York State completed its Erie Canal, Governor DeWitt Clinton visited Lawrenceburg at the conclusion of a tour celebrating the accomplishment. Clinton was welcomed to Indiana by former Speaker of the House Amos Lane. "In the principle of internal navigation, by locks and canals, there is something truly sublime," Lane said, reflecting the prevalent public sentiment.[114] In other words, if New York could build a successful canal, so could Indiana. By the 1830s, the legislature expected the words "Be it enacted by the General Assembly of the State of Indiana" to work wonders.

This expectation was clearly rooted in early laws declaring waterways "public highways" and thus "navigable." These laws were intended to prevent damming up and to provide a means for clearing obstructions. Specified waterways were to be "worked" for up to three days a year by adult males residing within three miles of either shore. This lawmaking process was described by Charles H. Test, a House member in the mid-1820s: "In 1826 . . . I did what the good Being never did do—made Flat Rock a navigable stream by law."[115] By 1833 it is estimated that the General Assembly had declared 2,500 miles of waters navigable. Some would "scarce float a plank." These included Poison Creek from its mouth to Cummin's mill; Little Pigeon Creek to Barker's mill; and Big Pigeon Creek to Fairchild's mill.[116]

Since the traces and Indian trails of territorial days were inadequate, roads elicited even more interest than waterways during the years at Corydon. The first three sessions enacted laws for opening and repairing public thoroughfares and requiring two to six days of labor a year on roads by able-bodied males.[117] These early laws dealt mainly with intracounty roads that were little more than bridle paths through the stumps; in bad weather they were practically impassable.[118] The 4th General Assembly took the first steps to implement a state system when it passed "An Act locating certain permanent roads." In all, the act provided for twenty-five roads along definite routes through various counties, including five that were to be routed to the site of the new seat of government. It was the most ambitious overland transportation bill yet enacted. Since many of the roads were never even started, however, the measure was important mainly in showing that during early legislatures roads were similar to the Ohio Falls Canal: lawmakers could pass laws and sometimes not much would happen.[119] "An Act authorizing the laying off certain roads . . . and appropriating $100,000 of the

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[114] Lawrenceburg *Indiana Palladium*, August 12, 1825.

[115] Reminiscences of Test to W. W. Woollen, 1883, Test file, Legislator, IHSL.

[116] George S. Cottman wrote in 1906 that "the locations of the mills named being in large part lost to memory, the actual mileage declared navigable is now past determining." See "River Navigation in Indiana," *IMH*, 2 (1906), 89-95.

[117] *Laws*, 1816-17, pp. 72-84; *ibid.*, 1817-18, pp. 273-85; *ibid.*, 1818-19, pp. 69-74.

[118] The best account of early Indiana roads is Buley, *Old Northwest*, 1:451-55.

[119] *Laws*, 1819-20, pp. 97-112. In 1823 the 7th General Assembly passed an act to "revive" the law of 1820 because several of the roads, including one from Corydon to New Albany, had not been built. *Ibid.*, 1822-23, pp. 105-7.

. . . three percent fund for opening the said roads" became law on December 31, 1821. The law was more comprehensive than any previous road legislation, projecting twenty-two roads, eleven of which were to go to Indianapolis. Unlike most earlier laws that only located projected roads, this one included specific instructions on layout and construction. The law contemplated 1,615 miles of roads in all, at a cost of $110,000. Since many, including one from Vincennes to Indianapolis, were completed, R. C. Buley concluded that "This act may be regarded as the foundation for the first state highway system of Indiana." Buley added that there were no really improved roads in the state until after 1835.[120]

At the 7th General Assembly lawmakers enacted fifteen separate bills involving twenty-two different roads. Eight relocated routes; two revived laws that had fallen into desuetude; some of the others provided for new projects. The acts included one "Changing a part of the state road located from Mauk's ferry to Indianapolis," another "To provide for the altering of state roads, and for other purposes," and yet another "To re-locate so much of the state road leading from the Ohio line through Brookville to Indianapolis, as lies between that point to which the said road is opened and Indianapolis." Senator George Craig of Switzerland County became so confused after weeks of manipulations and motions regarding roads that he moved the stationery committee "be instructed to procure a map of the state . . . ." The Senate concurred but no evidence was found that a map was forthcoming.[121] Craig's motion illustrated one fact of legislative life: lawmakers sometimes passed road bills almost blindfolded. Even with maps, legislating knowledgeably would have been difficult at times. For example, the House in 1825 actually considered a petition "praying for the location of a state road, from the House of Amasa Makepeace, to the dwelling place of the widow Shimer, and thence to Newcastle [*sic*], in Henry County." Although this particular petition was rejected, it was tangible evidence that the General Assembly might be asked to begin and end a road almost anywhere.[122] Roadmaking apparently did not improve until after maps were available to legislators in the late 1830s. In 1832 Jonathan Jennings, by then retired from public life, was appalled by "quite disagreeable" travel conditions. The former governor, acquainted with the peculiar propensity to enact road bills without first consulting a map, saw little reason for hope: "A state that affords *not* charts of its own geography must legislate '*as through a glass darkly*.'"[123]

The Michigan Road and the Wabash and Erie Canal were the first major improvement projects undertaken after the move to Indianapolis. The former was more ambitious by far than any previous effort to improve overland trans-

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[120] *Ibid.*, 1821-22, pp. 152-69; Buley, *Old Northwest*, 1:452n, 454.

[121] *Laws*, 1822-23, Contents, i-vi, for titles of the fifteen bills; for Craig's motion, *Senate Journal*, 1822-23, p. 97.

[122] *House Journal*, 1825, p. 170.

[123] Jennings to David G. Mitchell, January 4, 1832, in Historical Documents, William H. English Papers, IHSL, emphasis in original. Ironically, when a joint resolution to provide legislators with maps passed in 1838, one newspaper objected to spending money "for those who are able to purchase maps for themselves." Brookville *Indiana American*, March 9, 1838.

portation; the latter considerably more extensive and expensive than previous attempts to improve waterways. Both originated in 1824 when the General Assembly petitioned Congress for aid in opening a north-south route to the new capital city.[124] Congress responded with a grant of a strip of land 320 feet wide through the public domain to build a canal connecting the Wabash and Maumee rivers. The grant was so meager that a House committee in 1825 reported "no politician having a just regard to the interest of the state ought to be willing to accept it." A Senate committee reported resolutions urging a more generous land grant and federal action to extinguish Indian titles to land in northern Indiana.[125] Congress granted these requests. Land cessions were negotiated in 1826 with the Miami and Potawatomi tribes. In March, 1827, Congress donated land for a road from Lake Michigan to the Ohio River and a strip of land two and one half sections wide on either side of a canal that would unite at navigable points the waters of the Maumee and the Wabash.

The congressional gift led Governor James Brown Ray to try to inspire the 11th General Assembly with a sense of the momentousness of the opportunity. Ray, who helped negotiate the Indian land cessions as a United States commissioner, estimated the total worth of the land grant at $1.8 million. He told lawmakers in his message to the 1827-1828 session that not for another fifty years, "perhaps never," would Indiana have such a chance to construct internal improvements on a scale capable of producing "a revenue that shall relieve our fellow citizens from taxation . . . ."[126] Lawmakers, sure to be interested in any scheme with such magical properties as to make taxes obsolete, accepted the grants on January 28, 1828, and committed the state to building the road and the canal.[127]

The General Assembly turned to the road first and three years of bitter debate ensued because the land grant stipulated a road from Lake Michigan to "some convenient point on the Ohio." This language was incorporated into the bill and the imprecision led to almost continuous wrangling throughout the sessions of 1827-1828, 1828-1829, and 1829-1830 before both houses agreed on a most "convenient" point. Convenience, of course, had nothing to do with the choice, as every town along the Ohio River had its supporters. A speech by Representative James G. Read (Daviess County) was typical of the oratory that filled the air. Read declared that the southern route should pass through Martinsville, Washington, and Petersburg. At each point the grandeur of the country, the commercial possibilities, and the industriousness of the people rose higher and higher. At

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[124] *Senate Journal*, 1823-24, pp. 105-6.

[125] *House Journal*, 1825, pp. 176-77; *Senate Journal*, 1825, pp. 168-76.

[126] Message to the General Assembly, December 4, 1827, in Dorothy Riker and Gayle Thornbrough (eds.), *Messages and Papers Relating to the Administration of James Brown Ray, Governor of Indiana, 1825-1831* (Indianapolis, 1954), 271-99, quotations, 273-74. A student of the Michigan Road, Geneal Prather, said Governor Ray "made the project one of his chief hobbies for a time, and he might well be called the father of the Michigan Road." See Prather's "The Struggle for the Michigan Road," *IMH*, 39 (1943), 1-24, quotation, 7.

[127] *Laws*, 1827-28, pp. 10-12, 139-40.

Princeton "we behold seminaries and colleges rearing their majestic cupolas and steeples until lost in the clouds." When Read finally got to the point—Mount Vernon—he had to stop because neither "pen nor pencil would do justice to the subject."[128] Since most of northern Indiana was not yet divided into counties, and thus not represented in the legislature, a bill was passed in 1828 to survey a route north from Indianapolis to the lake.[129] Thus, when first term Representative James H. Wallace of Jefferson County finally succeeded in having the southern terminus located at Madison, the northern route was already set.[130] The act of January 13, 1830, provided the road would run from the mouth of Trail Creek (the future site of Michigan City) around the Kankakee ponds via the St. Joseph River to its southern bend (the future site of South Bend), south to the mouth of the Eel River at Logansport, and thence south to Indianapolis. From the capital city the route would head southeast through Greensburg to Madison.[131]

When the General Assembly began consideration of the Wabash and Erie Canal during the 1828-1829 session, "a four-years' war opened . . . fought on the floor in session and in the newspapers out of session."[132] Representatives of the more recently formed upper Wabash counties usually allied with the "Wabash band" of counties along the lower river in favor of the canal. They were generally outnumbered by opponents. A "Whitewater group" from the southeast cared little for the proposed canal but wanted a canal that would boost the fortunes of Lawrenceburg and Brookville. The counties along the Ohio River also generally opposed the Wabash and Erie, citing the failure of the Ohio Falls Canal as proof that such projects were unwise. Many counties in the center of the state also opposed the Wabash and Erie. Instead, they called for improvement of the White River and championed construction of a Central Canal.[133] There were also railroad enthusiasts like Zebulon Levenworth of Crawford County who asked the House to inquire into the comparative advantages of railroads and canals. According to Levenworth, railroads were one-third cheaper to build than canals, could go almost anywhere, decreased the chances of sickness due to stagnant water, and afforded a much faster means of travel.[134] While no majority could be achieved regarding specifics until 1832, there was near unanimity that internal improvement projects should be undertaken. The mood that gripped

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[128] Indianapolis *Indiana Journal*, January 3, 1828.

[129] *Laws*, 1827-28, pp. 87-89.

[130] Wallace file, Legislator, IHSL. A note from Wallace's granddaughter stated that the citizens of Madison voted a testimonial to Wallace after the 1829-30 session for his effort on behalf of the city.

[131] *Laws*, 1829-30, pp. 111-14.

[132] Esarey, *Internal Improvements in Early Indiana*, 87, 88.

[133] One voter in Indianapolis suggested two canals: one connecting the White and Mississinewa rivers to Indianapolis; the other connecting the first to the Wabash-Maumee canal. A Mississinewa-White canal of about sixty miles to the capital city "offers a water communication between Indianapolis and New York," he said. Indianapolis *Indiana Journal*, July 25, 1826.

[134] *House Journal*, 1830-31, p. 287; Levenworth report in Indianapolis *Indiana Journal*, February 2, 1831.

citizens and politicians was reflected in a couplet used by the successful candidate for a House seat from Franklin County in 1828:

> If internal improvements you'd wish to go on
> You'll be safe in electing old Daniel St. John.[135]

Samuel Judah of Vincennes (House, six terms, 1828-1841) reflected the confidence and self-assurance manifested by almost all canal enthusiasts until reality forced them from office in the 1840s. Judah, as chairman of the House committee which first considered the Wabash and Erie in 1829, reported that a canal was "superior to all other modes of transportation." He continued that while cost was a consideration, the state should hesitate only over "the manner of obtaining funds." Judah went on to downplay this problem, stating the total cost of the Wabash and Erie would be no more than $1.1 million, and that estimate was probably too high. He added that the lack of money did not justify delaying the project because construction could take place one section at a time. Financing could be accomplished by selling the canal lands granted by Congress and, once the job was completed, tolls would pay the interest and principal.[136] In spite of Judah's optimism, a bill that session (1829) to commence construction failed 21 to 32 in the House.[137]

As Judah suggested, the manner of obtaining funds was crucial. At the next election, when William Ludlow ran for a seat in the House from the upper Wabash counties, he advocated selling the lands on credit of fifteen to twenty years. "This would enable poor industrious men, and others, not able to command money immediately, to be owners of a small farm, and prevent speculators from engrossing large tracts," Ludlow told the voters of Fountain, Montgomery, Tippecanoe, and Warren counties. Ludlow's opponents claimed sales on credit would "destroy the value of the donation" because it would fill the "country with idle, extravagant and insolvent debtors, who have slipt [*sic*] through the fingers of sheriff and constable elsewhere . . . ." Such men, Ludlow was told, would not work and had neither money nor energy to improve the land.[138] Although Ludlow lost the election, the ensuing session elected three canal commissioners and empowered them to arrange land sales on credit.[139]

An additional session filled with rancor and wrangling in 1830-1831 was necessary before the legislature finally committed the state to begin construction. Senator James Blair became so exasperated at one point that he moved to amend the title of the bill by substituting "destruction" for "construction" of a canal.[140] Ground was broken in March, 1832, and by August the canal commissioners expressed optimism that "A prudent scheme of internal improvement and an

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[135] St. John file, Legislator, IHSL. St. John served only one term at the 1828-29 session.

[136] Judah report, *House Journal*, 1828-29, pp. 169-92, quotations, 169, 170.

[137] *Ibid.*, 473-74, 491.

[138] See circular by William Ludlow and letter from "Tippecanoe," Terre Haute *Western Register*, June 11, 1829. Both the circular and letter were reprinted in Vincennes *Western Sun*, August 1, 1829.

[139] *House Journal*, 1829-30, pp. 523-24; *Laws*, 1829-30, pp. 13-18.

[140] *Senate Journal*, 1830-31, p. 381.

intelligent management of the fiscal concerns of the state, cannot fail of being highly beneficial . . . and we trust that such caution and discretion will characterize the . . . work we are engaged in as to ensure the greatest possible degree of prosperity." The commissioners sold bonds to eastern financial interests and by the end of 1832 there was more than $104,000 on hand. With construction underway, opposition to the Wabash and Erie vanished from the legislature and the project moved ahead until it was completed from Lake Erie to Lafayette by 1843. Unfortunately, despite the commissioners' self-serving statement about "caution and discretion," the opposite characterized their work and the state lost heavily on the bonds. This fact led Logan Esarey, the earliest student of the project, to conclude that there was "no evidence of any system of financial management" because each "did as he pleased with the funds that came into his hands."[141] In the meantime, the Indiana General Assembly became ever more enthralled with improvement schemes.

The System of 1836 and State Bankruptcy

When Governor Noah Noble called for a general system of internal improvements at the opening of the 1834-1835 session, he touched off what became an improvements mania.[142] This was the first session to meet after the Second State Bank was chartered. The bank was not, as a Democratic newspaper charged in 1843, another Whig scheme "to blend and unite the great interests of the bank and internal improvement, and thereby to hold the people in subjugation to the nod of the towering monsters."[143] But the bank, insofar as it seemed to ensure economic stability, did serve as a prelude to enactment of the kind of program Noble proposed. Representative Richard W. Thompson (Lawrence County), a forceful champion of what came to be called "the System," responded by reporting a bill that included something for practically every competing section in the state. The bill failed when legislators could not agree on the works to be constructed. A bill did pass, however, providing for surveys and cost estimates on several possible routes for canals, railroads, and turnpikes.[144] Thompson was reelected in 1835 and predicted the upcoming session "will be the most important . . . which has assembled under our state government . . . ." His enthusiasm was typical of the majority in both political parties who, like him, saw "the System" as inevitable and not something to be evaded by "*boyish* predictions of *insolvency, ruin, bankruptcy* and '*chymera's* [*sic*] *dire*.'"[145] These enthusiasts carried the day in January, 1836, and the Mammoth Internal Improvements Bill

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[141] For the statement of Commissioners William C. Linton and Nicholas McCarty, dated August 16, 1832, see Vincennes *Western Sun*, September 15, 1832. See also report of fund commissioners, *House Journal*, 1832-33, pp. 186-92, and Esarey, *Internal Improvements in Early Indiana*, 92.

[142] *House Journal*, 1834-35, pp. 12-16.

[143] Indianapolis *Indiana State Sentinel*, October 24, 1843.

[144] *House Journal*, 1834-35, pp. 344-52, 375-78; *Laws* (general), 1834-35, pp. 25-30.

[145] Thompson to Governor Noble, June 9, 1835, in Noble Papers, Indiana Division, ISL, emphasis in original. For Thompson's role in internal improvements, see Charles Roll, *Colonel Dick Thompson: The Persistent Whig* (Indianapolis, 1948), 19-34.

became law. Mammoth it was, appropriating some $13 million to crisscross the state with a maze of canals, highways, improved rivers and streams, and railroads. The proposed transportation network included construction or modification of at least three canals: the existing Whitewater Canal would be linked, either by canal or railroad, to the Central Canal; the Central Canal would be constructed from a point on the upper Wabash River to Indianapolis, and then southwest towards Evansville via the White River and its west fork; and the Wabash and Erie Canal would be extended beyond Lafayette to Terre Haute where it would continue southeast to the Central Canal via the Eel River. The bill also proposed paved turnpikes, a railroad from Madison to Crawfordsville (this later became the Madison and Indianapolis Railroad when completed under private auspices), surveys for a railroad or paved road from Jeffersonville to Crawfordsville, and dredging of the Wabash River from its mouth to Vincennes. To Logan Esarey, writing in 1912, the act "taken in all its aspects, its consequences immediate and remote, was the most important measure ever signed by an Indiana governor."[146]

There is no doubt that the bill reflected the will of the people regardless of party. The Democratic party organ in Indianapolis responded to Whig Governor Noble's original proposal by claiming that it had never witnessed so much popular interest in a legislative matter. The paper also printed instructions from voters urging Democratic legislators to "use all their influence" for a "complete" System.[147] Whig newspapers displayed similar enthusiasm. One called for election of only pro-improvements men in 1835 because "The miserable policy of *creeping* along the high road to prosperity is abandoned by the People themselves, and it will be strange, indeed, if their servants in the Legislature should jog along at their old gait, deaf to the general voice."[148] When the System was enacted the *Indiana Democrat* proclaimed that citizens "consider themselves one hundred percent richer than they were but one week since" and predicted that the state's resources "will be found capable of sustaining works to double the extent of the present bill."[149] The Whig *Indiana Journal*, not to be outdone, predicted that because of the act the state would reach a point of economic growth which otherwise would not have been attained for a score of years.[150] Throughout the state there were joyful celebrations like the one when word of the bill's passage reached Madison: cannons were fired, bonfires were lit, and "A party of gentlemen on horseback, accompanied by a band of music," visited the home of Representative Milton Stapp and "serenaded" his family in thanks and praise.[151]

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[146] *Laws* (general), 1835-36, pp. 6-21; Esarey, *Internal Improvements in Early Indiana*, 101.

[147] Indianapolis *Indiana Democrat*, January 20, 1835; instructions from voters of Owen County to George W. Moore and James Whitcomb, *ibid.*, January 30, 1835.

[148] Terre Haute *Wabash Courier*, July 16, 1835. Emphasis in original.

[149] Indianapolis *Indiana Democrat*, January 19, 1836.

[150] Indianapolis *Indiana Journal*, January 19, 1836.

[151] Madison *Republican and Banner*, January 21, 1836.

Although enthusiasm for the System clearly reached frenetic proportions in and out of the General Assembly, the act of 1836 proved to be a colossal legislative blunder. Despite all the talk since at least 1825, there had been no topographical survey of the state or any consultation with engineers so that lawmakers would know what was feasible and which projects should have priority. Everything was started at once. Also, at a time when the normal revenues of the state averaged less than $75,000 yearly, the amount appropriated was beyond the understanding of legislators and ordinary citizens. Politicians said cost was no object since the System would be "self-sustaining." There was not even a provision for interest payments in the act; that, too, would have to be paid from loans. But the most serious drawback was the lack of effective supervision. The fund commissioners named in 1831 for the Wabash and Erie Canal were given total control. Their reputation for unreliability and playing fast and loose with public funds was already established. Now, given an almost blank check on the credit of the state of Indiana, they were made dizzy by the heights of high finance.

The costs of getting underway were staggering. In the first year the commissioners spent at least $3.8 million, with the full amount borrowed at 5 per cent interest from eastern and foreign investors. Another $1.5 million was borrowed and spent in 1837, plus an additional $104,000 for surveyors' and officers' expenses. The pace continued in 1838 with another $1.7 million borrowed and spent. The state's revenue from taxation for 1838 was $45,000; the interest due on System loans, $193,000. The Panic of 1837 and the subsequent depression made the state's bad situation worse. By 1839 the folly was clear. In August of that year all work on the System ceased. Indiana was bankrupt.[152]

A warning of impending disaster was raised in the General Assembly at least as early as the 1836-1837 session. Representative Benjamin F. Ferguson, a Whig from Clark County, stated "We will become bankrupt unless some check is given to those in power [*i.e.*, the fund commissioners]." Another Whig, Senator John L. Dumont, called, as did Ferguson, for "modification or classification"—the assignment of priorities to the projects and building only a few at a time—as the only way to avoid failure.[153] Advocates of classification received short shrift during the session, however, and from many voters in the 1837 election. In Wayne County, Whigs Joseph Morrow and Nathan Smith and Democrat Henry Hoover all ran in favor of establishing priorities; Morrow and Hoover lost while Smith was elected. Senator Dumont felt so strongly about classification that he ran for governor against fellow Whig David Wallace, who said that the time for classifying the System was past. Besides, added Wallace, expenditures of $20 or $30, even $40 million at less than 5 per cent interest "judiciously

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[152] The information regarding expenditures is drawn from Esarey, *Internal Improvements in Early Indiana*, 107-16. Esarey's account is detailed and includes information regarding the work finished on each project. A briefer account, with citations to relevant legislative actions, is Buley, *Old Northwest*, 2:280-85.

[153] Remarks of Ferguson, Indianapolis *Indiana Democrat*, January 27, 1837; speech by Dumont, *ibid.*, January 31, 1837.

spent" could not "ruin or oppress our citizens." Wallace was elected governor.[154] At the 1837-1838 session, nothing was done to curb the commissioners although some steps were taken to modify a few projects. Outgoing Governor Noble spoke confidently in his valedictory that "nothing has been witnessed . . . to discourage the progress of the ultimate success of the system." Incoming Governor Wallace was equally optimistic in his inaugural speech. At the end of the session, Representative Robert Hanna, Jr., of Marion County reported to his constituents about some "salutary changes" that he hoped would save money and ensure final completion. The changes lauded by Hanna included substitution of a macadamized road for the railroad from Jeffersonville to Crawfordsville at a savings of $5 million and connecting the Whitewater Canal to the White River by a road instead of by a railroad at a savings of another $1.5 million.[155] The substitution of paved roads for railroads disturbed advocates of the latter. Representative Ezra F. Pabody of Jennings County wrote to his wife during the session that "Great apprehension prevails here among the friends of the railroad that it will be changed to a Macadamized Turnpike road." Pabody added he would not regret the change except that "mounds of earth" raised for a railroad in Vernon "will serve as monuments of the instability and folly of the legislature."[156]

The 1838-1839 session realized, in the words of a resolution offered by Senator David G. Mitchell, that the state had "embarked in an extensive and splendid system of internal improvements, without any adequate means to carry it on . . . ."[157] One member reported to his constituents after six weeks that "nothing has yet been done or definitely acted on."[158] Another member reported after nine weeks that "nothing has been done of any consequence neither modification [classification] nor increase of Bank Capital nor revenue laws has been . . . acted on and it is somewhat doubtful whether any of these measures will be acted on to any advantage."[159] The session ended after eleven weeks of much talk and no action on classification. Lawmakers did reorganize the Fund Commission and put Milton Stapp in charge.[160]

By 1840 it was too late for classification to help. Amos Lane, the man who pontificated in 1825 that there was "something sublime" about navigation by canals, was back in the House as chairman of the ways and means committee. In this capacity, he was forced to tell unpaid contractors engaged in public works an unpleasant fact about money: "There was none in the treasury and the state could not borrow."[161] State bonds in excess of $3 million had been sold, for

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[154] See letters of Morrow, Hoover, and Smith in Richmond *Palladium*, July 1, 15, 22, 1837; speech by Wallace, *ibid.*, July 15, 1837.

[155] Noble message, *Senate Journal*, 1837-38, p. 10; Wallace message, *ibid.*, 26-33; Hanna to Fellow Citizens, Indianapolis *Indiana Journal*, February 24, 1838.

[156] Pabody to his wife, January 29, 1838, in E. B. Newcomb Papers, Indiana Division, ISL.

[157] *Senate Journal*, 1838-39, p. 168.

[158] Caleb Jackson to his constituents, Richmond *Palladium*, January 19, 1839.

[159] Senator John Beard to I. C. Elston, February 4, 1839, in Henry S. Lane Papers, IHSL.

[160] Esarey, *Internal Improvements in Early Indiana*, 118.

[161] Lane file, Legislator, IHSL.

which the state received nothing. The best the General Assembly could do was to attempt an inquest. "The House called for no less than seventeen formal reports and was completely bewildered by them," wrote Logan Esarey. Another eighteen reports were submitted to the Senate, with the same result.[162] Although the session lasted eighty-five days, the legislature "was quite incapable of understanding or handling the financial mess; its talents were no match for those of the politicians and manipulators who were pilfering the state's treasury and destroying its credit."[163] The next speaker of the House, Samuel Judah, delivered the System's epitaph in 1841: "Here then is the end of our golden dreams. Here the consummation of all those visionary schemes . . . developed in the Wabash and Erie Canal, expanded in the system of 1836, and . . . terminated in bankruptcy, dishonor and disgrace."[164]

In the wake of the collapse, lawmakers scrambled to find scapegoats. The fund commissioners and others were ordered to appear "at the bar of the Senate" in 1841 to answer questions about gross negligence, mismanagement, and possible fraud. State Bank President Samuel Merrill, who had signed a bond for Commissioner Isaac Coe, was one of those subpoenaed. Afterwards, Merrill wrote his brother that he had "escaped tolerably well" since he was not indicted. Nonetheless, Merrill added, the Senate inquiry "led into the only serious difficulty in which I have ever been" because Coe and the other commissioners "occasioned most of the difficulties that have fallen on the State."[165] Several commissioners were indicted and the Senate's judgment regarding Milton Stapp, who escaped indictment, could have applied as well to most of the others. It was impracticable "to test the conduct of this gentleman by the rigid rules of right and law," the committee report stated, because such an inquiry would never end. The question was not what did Stapp do that was wrong but rather "what is there in his whole business correctly done?" The committee listed a litany of wrong actions that included indulgence in convoluted negotiations, improper loans of state property, backdating of letters and receipts, negligence and confusion, and improper connections with swindlers. The report concluded that all of these things "are facts too glaring to be denied, too grossly wrong to admit of palliation, and too palpably indefensible to invite attack."[166]

Milton Stapp was a veteran of many years of public service at the time this judgment was rendered.[167] Despite his disgrace in 1842, the voters returned

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[162] Esarey, *Internal Improvements in Early Indiana*, 119.

[163] Buley, *Old Northwest*, 2:283.

[164] Vincennes *Saturday Gazette*, February 6, 1841. As Judah saw the situation, the only remedy for Indiana and other indebted states would be "an assumption of State debts by the United States."

[165] For the resolution demanding an inquiry, see *Senate Journal*, 1841-42, pp. 28-29; for Merrill's reaction, see letters to David Merrill, February 11, April 1, 1842, in Samuel Merrill Papers, IHSL. Merrill was so distraught by the situation on April 1 that he wrote "It seems as if the whole country must break up and that honesty has left our public men."

[166] *Documentary Journal*, 1841-42, Part 1, no. 6, p. 177.

[167] Stapp entered the House from Jefferson County at the 1822-23 session and became chairman of the ways and means committee. In 1823 he was elected to the Senate and became president *pro*

Stapp to the House for two terms from 1844 to 1846. Political opponents proved less forgiving, however, as Stapp endured a barrage of attacks on his honesty, integrity, and intelligence. In 1846, bitter and disillusioned, he renounced all intention of ever serving again in the state legislature:

> Experience of 16 years' service in your state Legislature has convinced me that there is no profit, no honor, and above all, no pleasure or solid enjoyment in being a public servant; but on the contrary, that such a life is well calculated to lighten the purse, and to deprive us of that peace of mind and sound pleasure by one's fireside, and with one's own family . . . .[168]

Widespread corruption and fraud on top of bankruptcy did not cool the ardor of some System advocates. Editors still implored readers to support completion of projects affecting their immediate vicinity.[169] And a few politicians continued to favor the System until voted out of office.[170] The more practical and generally successful office seekers, however, sought a means whereby something might be salvaged without any further state expenditures. One such was William R. Foulke, who was elected to the House in 1841 from Wayne County. In a campaign letter Foulke argued there should be no more state borrowing for the System "But where there are Works that have been partially prosecuted by the State, I am in favor of Chartered Companies taking them up and completing them to such points as would render them useful . . . ."[171] The legislature moved in the direction advocated by Foulke at the ensuing session when the House approved a resolution introduced by John Edwards of Crawford County. Edwards asked that the committee for canals and internal improvements inquire into suspending the System and having private companies complete it.[172] Bipartisan majorities then enacted "An Act to provide for the continuance of the construction of all or any part of the public works of this State, by private companies . . . ."[173] In terms of future impact on the state, the Madison and Indianapolis Railroad was the most important project saved. Work on what became the first railroad

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tempore at the ensuing session. He was lieutenant governor under James Brown Ray from 1828 to 1831 and ran third in a three-man race for governor in 1831. Stapp returned to the House from 1835 to 1838, where he was a leading champion of internal improvements. In 1839 he accepted the fateful appointment as state fund commissioner. See Stapp file, Centennial History of the Indiana General Assembly, Archives Division, Commission on Public Records, Indiana State Library, Indianapolis.

[168] Stapp to Madison *Republican and Banner*, April 1, 1846.

[169] See, for example, Richmond *Palladium*, April 9, 1842. This newspaper stated "the prosperity of Richmond is inseparably connected" to completion of the Whitewater Canal.

[170] One such was Representative Tunis Quick of Bartholomew County, who lost his seat in 1842. Quick's son, Morgan J. Quick, blamed his father's defeat on active support of internal improvements at a time when "the people were not ready for the advancement." Quick file, Legislator, IHSL.

[171] Richmond *Palladium*, July 31, 1841.

[172] *House Journal*, 1841-42, p. 55; Edwards file, Legislator, IHSL.

[173] *Laws* (general), 1841-42, pp. 3-21. See Indianapolis *Indiana State Sentinel*, January 22, 1842, for an account that shows the bill drew strength from both Whigs and Democrats. Democrat William John Brown of Marion County defended the bill as "the best that could, under the circumstances that surround us, be done for the welfare of the State and the people."

into the capital was commenced as part of the System in 1836 and less than thirty miles had been completed. Then, in 1843, the state granted the road to the Madison and Indianapolis Railroad Company at nominal rent on condition that the line be completed. The state and the company were to divide the profits according to the length of road finished by each. Samuel Merrill, defeated for reelection as president of the State Bank in 1843, became president of the company. Under his direction the line was completed by 1847 and showed a healthy profit on receipts of $200,000 a year.[174]

The act of 1842 was a partial solution to the problems posed by the collapse of the System, but it did not touch the thorniest problem of all—almost $10 million of interest-bearing bonds held by eastern and foreign banks, including the Rothschilds and Lloyds of London. With interest piling up at the rate of $550,000 per annum by 1845, something had to be done. But what? Only a confiscatory tax level would make redemption possible, and that was politically and financially unthinkable. The Democratic party's successful tactic of blaming Whigs for the debacle, a ploy that helped ensure Democratic ascendancy in the state until the Civil War, made even discussion of a solution difficult.[175] Suggestions were plentiful, as perusal of almost any newspaper in the state between 1841 and 1845 will attest. Generally these involved arguments for and against repudiation, with pragmatists favoring and moralists opposing.[176] The Whig organ in Indianapolis articulated what appeared to be the majority sentiment of the people when it noted "Our bonds bear on their face the plighted faith of the State of Indiana, for the payment of principal and interest." Violations of public trust by government always recoiled on those guilty of its perpetration, the paper warned, as it urged the legislature to redeem the bonds.[177]

Those most interested in redemption, of course, were the bondholders of New York and London. In 1845 they hired Charles Butler to present their case to the General Assembly. Indiana lawmakers had not before seen the likes of such an emissary. An urbane New York lawyer of dignified mien who "looked like a benign bishop," Butler had labored successfully during 1843 in a similar case before the Michigan legislature. His prospects in Indiana were not totally

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[174] Merrill to J. B. O'Bannon, December 17, 1847, Merrill Papers, IHSL. This letter, which contains a wealth of information on the state's first railroad, was printed in *Indiana History Bulletin*, 30 (1953), 100-2.

[175] Twelve articles on "The Mismanagement of the Internal Improvement System" in the Indianapolis *Indiana State Sentinel*, April 4 through July 4, 1843, illustrated the Democrats' approach. The headlines told the story: "'Elegant Extracts' from the Inaugural Addresses of Noble and Wallace," April 18; "Usurpation of Power by Noble—His Strong Recommendation to go the Whole Hog," May 9; "Baseness of the Whig and Magnanimity of the Democratic Politicians," July 4.

[176] The Democratic party's state organ resorted to satire with one suggestion intended to embarrass Whig legislators. The legislature should buy a boar and a sow and by natural increase there would be ten million of each after ten years. When sold for $1 apiece, the debt would be repaid and then some. But, since "a state debt is a state blessing," the spurious correspondent was confident lawmakers would ignore his advice. The letter was signed "Timothy Moonshine, Jr., Patent Scheme Factory, Fog Lane." *Ibid.*, January 3, 1843.

[177] Indianapolis *Indiana Journal*, December 3, 1845.

bleak because of the hoped for completion of the Wabash and Erie Canal. This canal, finished from Lake Erie as far as Terre Haute by 1843, was a going concern in spite of the System's collapse. In 1845 Congress made an additional land grant to complete the project from Terre Haute to Evansville. Estimates showed that an operable canal from Evansville to Lake Erie would yield the state $500,000 a year by 1855. When Butler arrived in Indianapolis in December, 1845, his objective was legislation that would apply these expected revenues to the state debt until it was paid in full.[178]

He was confronted by mostly unsympathetic lawmakers who believed that nothing could be done about the debt. So Butler went to work. He took his case first to Governor James Whitcomb and received a sympathetic, though noncommittal, hearing. He spoke for hours before both houses. He addressed a joint session. And he went directly to the people with an open letter that warned against either tacit or passive repudiation. Butler cajoled, persuaded, and lobbied endlessly. The New Yorker gained one vote by having tea with the wife of a pro-repudiation senator because he understood "what a good wife can do in an important affair." Butler wrote on December 23 that "I made the call this morning, and this P.M. the senator gave a vote in my favor."[179] Butler kept lobbying right up to the moment of final action—almost. David B. Herriman (Noble County), a sympathetic senator who foresaw a close vote, stopped at Butler's room to plot final strategy. The lawmaker was rebuffed by the avid Presbyterian who refused to do worldly work on the Sabbath. Angered by the rejection, Herriman left with this parting shot: "If I understand the Bible right, if one's Horse, or Ox, or Ass falls into a ditch on Sunday it is entirely legitimate to lift it out on that day, and now Mr. Butler if your ass is not in a ditch I am damnably mistaken."[180]

Herriman voted for the Butler Bill of 1846 anyway when it passed by a margin of 61 to 33 in the House and 32 to 15 in the Senate. It tied redemption to completion of the Wabash and Erie Canal and required that bondholders contribute $2.25 million to complete the project in return for some 800,000 acres remaining from the federal donation.[181] The bondholders balked at spending the additional money so Butler returned to Indianapolis in 1847 to propose amendments and a second Butler Bill was passed that reduced the bondholders' contribution toward completion of the canal to $800,000. The state discharged half its debt, interest, and principal by deeding the Wabash and Erie to the bondholders. The other half would be taken up by a new bond issue and the state would pay neither interest nor principal on those bonds not surrendered for exchange.[182]

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[178] Quotation in Fatout, *Indiana Canals*, 114.

[179] For Butler's experience with the Indiana legislature, see Francis Hovey Stoddard, *The Life and Letters of Charles Butler* (New York, 1903), 222-78, quotations, 242.

[180] William H. English to Dr. Joseph F. Tuttle, November 22, 1893, in Herriman file, Legislator, IHSL.

[181] *Laws* (general), 1845-46, pp. 3-18. For an analysis of the settlement, see Lee N. Newcomer, "A History of the Indiana Internal Improvement Bonds," *IMH*, 32 (1936), 106-15.

[182] *Laws* (general), 1846-47, pp. 3-38.

The second Butler Bill was bitterly opposed, especially in the Senate, by those who saw it as repudiation of half the state debt. In fact, it passed the Senate only because anti-repudiationists failed to prevent a quorum through a tactic of organized absenteeism. The state Constitution stipulated that two thirds of each house constituted a quorum to do business. The thirty-three senators who voted 24 to 9 for passage constituted a quorum only because Abraham Cuppy of Whitley County died three days before the balloting. Even then, a quorum was achieved only when Cyrus Taber of Cass County was carried from his sickbed to the Senate where "with pallid face and wasted form, he entered the bar as the call progressed, supported on each side by Senators." The bizarre circumstances led one commentator to observe: "I think we are much indebted to Providence for getting this bill through the Senate."[183]

The settlement was satisfactory to both sides at the time, but nonetheless the bondholders were not paid because in the 1850s railroads took away the business of the Wabash and Erie Canal.[184] That meant security for the bondholders became valueless. Ultimately the General Assembly passed a constitutional amendment providing that no law should ever be passed to pay the debt other than according to the provisions of the Butler bills. Since the Wabash and Erie Canal was worthless, ratification of this amendment by the voters in 1873 meant that the state disavowed liability for the bonded debt incurred by the Mammoth Internal Improvement Act of 1836.[185]

The fiasco with the first State Bank and the debacle over internal improvements were glaring economic failures by state government during the pioneer era. Since both the bank and the System originated in laws enacted by the General Assembly, the legislature could not escape major blame. As a result, representative government was discredited amidst demands that the power of a legislature so inept be curbed. The state's bankruptcy in the 1840s led inevitably to the call for the Constitutional Convention of 1850-1851. Just as inevitably, the 1851

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[183] For Cuppy's death and Taber quotation, see letters of Senator William H. Stockwell, January 21, 26, 1847, in Evansville *Journal*, January 28, February 4, 1847; for the latter quotation, see letter from W. Carpenter to Mr. Shanklin, *ibid.*, January 28, 1847.

[184] Ralph D. Gray, the most recent student of the internal improvements fiasco in Indiana, wrote in 1982 that the Wabash and Erie Canal enjoyed its best years after 1847 when it was in private hands. It went downhill rapidly when the General Assembly chartered railroads in the 1850s along every mile of the canal. This ruined the project financially, said Gray, who suggested that the canal might have remained financially viable if it had not been for the railroads competing with it directly. See Gray, "The Canal Era in Indiana," *Transportation and the Early Nation: Papers Presented at an Indiana American Revolution Bicentennial Symposium* (Indianapolis, 1982), 113-34.

[185] Kettleborough, *Constitution Making in Indiana*, 2:105-6. The operative portion of the amendment reads: "No law or resolution shall ever be passed by the General Assembly of the State of Indiana that shall recognize any liability of this State to pay or redeem any certificate of stock issued in pursuance of an act entitled 'An act to provide for the funded debt of the State of Indiana, and for the completion of the Wabash and Erie Canal to Evansville,' passed January 19, 1846, and an act supplemental to said act passed January 29, 1847, which by provisions of the said acts, or either of them, shall be payable exclusively from the proceeds of the canal lands, and the tolls and revenues of the canal in said acts mentioned, and no such certificate or stocks shall ever be paid by this State."

Constitution forbade the General Assembly to pass any law contracting a debt on behalf of the state except "to meet casual deficits in the revenue; to pay the interest on the State debt; to repel invasion, suppress insurrection, or, . . . provide for the public defense."[186] A pioneer educator who stepped temporarily into public life as a delegate to the convention from Monroe County helped formulate this severe restriction against state debt. Professor Daniel Read of Indiana University argued that state government should confine itself to the simple duty of governing and not become a banker, or hotel keeper, or builder of canals or other works of internal improvement. Read stressed that the truth of his position was "settled beyond all matter of controversy, by every principle of sound reason, by experience all over the world, and more especially by experience of our American states."[187] This last was a reference to banking and internal improvement failures in Ohio, Illinois, Michigan, and Wisconsin similar to those experienced by Indiana. Each of these states placed restrictions on state debt in their constitutions.[188]

One hundred years after Daniel Read spoke up, another professor from Indiana University penned the definitive history of the Old Northwest during the pioneer period. R. Carlyle Buley, with the perspective of a century, examined the questions that concerned Read and concluded: "Possibly the very complexity of money, banking, and government finance makes an understanding of even the barest essentials impossible to the people, and thereby creates one of the most dangerous hazards upon which republics may founder."[189] The complexity that Buley wrote about proved to be a perplexing and baneful master for the Indiana General Assembly between 1816 and 1850.

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[186] Kettleborough, *Constitution Making in Indiana*, 1:352.

[187] *Report of the Debates and Proceedings of the Convention for the Revision of the Constitution of the State of Indiana* (2 vols., Indianapolis, 1850), 1:56-57, 645. Read devoted his life to public higher education in Indiana, Wisconsin, and Missouri. See James Albert Woodburn, *History of Indiana University* (2 vols., Bloomington, 1940), 1:183-203.

[188] Carmony, "Historical Background of the Restrictions Against State Debt in the Indiana Constitution of 1851," *IMH*, 47:129-42.

[189] Buley, *Old Northwest*, 1:565.

Chapter 2
The Constitutional and Political Context

Representative government in America dates from the spring of 1619 when Governor George Yeardley arrived at Jamestown, Virginia, with instructions from his managers in London "to summon a General Assembly composed of the councillors appointed by the company and burgesses elected by the freemen of the colony." After elections were held a unicameral body that included the governor, who presided, convened on July 30, 1619. This first representative assembly followed parliamentary procedure, appointed committees, and enacted laws. The right of petition for redress of grievances was also established, as was the right of the assembly to determine disputes concerning its membership.[1] In 1621 the Virginia Company managers promulgated the first statute which stated explicitly that a governing council "shall be called THE GENERAL ASSEMBLY, wherein . . . all matters shall be determined, decided and ordered, by the greater part of the Voices then present."[2] The term came into wider use as other British settlements were established. Early charters for Massachusetts, Connecticut, and Rhode Island all spoke of "Court or Assembly" or "general meeting" to describe legislatures; by the eighteenth century "General Assembly" was used in all three colonies. The term also was used when the Carolina legislature divided permanently into two houses toward the end of the seventeenth century. By the time the United States of America was formed the words General Assembly were so deeply ingrained in the American consciousness that a variation was used in all thirteen states.[3]

The Territorial Period

Difficulties with appointed and sometimes arbitrary colonial governors led to an expansion of the powers of the assemblies. After independence, the first state constitutions provided that governors would, as a general rule, be severely restricted in their legislative influence and appointive powers. When the Continental Congress passed the Northwest Ordinance in 1787 it built on the state constitutions and sought to avoid the kinds of conflict that had marked the colonial experience with Britain. This ordinance, the generic law out of which

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[1] Louis H. Manarin and Jon Kukla, "Introduction," in Cynthia Miller Leonard (comp.), *The General Assembly of Virginia, July 30, 1619—January 11, 1978: A Bicentennial Register of Members* (Richmond, Va., 1978), ix-x.

[2] "Ordinance for Virginia, July 24-Aug. 3, 1621," in Francis Newton Thorpe (ed.), *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the States, Territories, and Colonies Now or Hitherto Forming the United States of America* (7 vols., Washington, D.C., 1909), 7:3811-12. Capitalization in the original.

[3] Robert Luce, *Legislative Assemblies: Their Framework, Make-up, Character, Characteristics, Habits, and Manners* (Boston and New York, 1924), 22-23.

Indiana and the other states of the Old Northwest developed, spelled out a process whereby representative government would be achieved in three stages. The first was a nonrepresentative stage during which an appointed governor, a secretary, and three judges had authority under conditions that made them answerable only to the federal government. The governor and judges were authorized to promulgate such laws from the codes of the original states "as may be necessary." The people resident in the territory were without voice as the governor also appointed whatever other magistrates and civil officers he felt necessary.

This first stage was to last only "*until the organization of the General Assembly*." As soon as there were 5,000 free male inhabitants of at least twenty-one years of age who owned a minimum of fifty acres of land, elections to a House of Representatives could be held as the territory passed to the second, or semirepresentative, stage. There would be one representative for every 500 white male inhabitants and each representative must own a minimum of 200 acres in the district or township he represented. In addition to the House, there would be an appointed Legislative Council of five members. The powers and duties of magistrates and other civil officers would be regulated by this General Assembly while the governor retained an absolute veto. The territory also got a nonvoting delegate to the United States House of Representatives. When the territory reached a total population of 60,000 free inhabitants, it could advance to the third stage—statehood—and be admitted to the Union on an equal footing with the original states. Before admission the prospective state must have a constitution and government that "shall be republican."[4]

On July 15, 1788, Governor Arthur St. Clair inaugurated the first stage of government. The Northwest Territory was inhabited largely by Native Americans who posed a barrier to permanent white settlement and population grew slowly until Anthony Wayne defeated the Indians at the Battle of Fallen Timbers (1794). The subsequent Treaty of Greenville (1795) spurred American growth in the easternmost part of the territory and gave impetus to demands for advancement to the second stage of government. The advance came in 1798 when Governor St. Clair called for elections to the first territorial General Assembly. It was at this point that the history of a legislative branch of government in Indiana began, since one of the twenty-two members elected to the first House of Representatives was John Small, chosen from Knox County. One of the five men appointed by President John Adams to the Legislative Council, the upper house, was Henry Vanderburgh who resided in Vincennes. Adams selected Vanderburgh from nominations made by the House and he was subsequently chosen president of the council. Thus the future state of Indiana was represented in both houses.[5]

On May 7, 1800, Congress divided the Northwest Territory into two parts. The eastern part, designated Ohio, advanced to statehood in 1803. All of the

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[4] "An Ordinance for the Government of the Territory of the United States Northwest of the River Ohio," in Charles Kettleborough, *Constitution Making in Indiana* (3 vols., Indianapolis, 1916, 1930), 1:26-33. Emphasis added.

[5] John D. Barnhart and Dorothy Riker, *Indiana to 1816: The Colonial Period* (Indianapolis, 1971), 301-4, 306-8.

rest—land that later comprised the states of Indiana, Illinois, Michigan, Wisconsin, and Minnesota east of the Mississippi River—became Indiana Territory. The act provided that government in the new territory was to be in all respects similar to that provided for in the Ordinance of 1787. There was one important difference, however: instead of waiting until the population reached 5,000 free adult males, the act stated that the second stage of government could be instituted whenever "evidence shall be given to the Governor that such is the wish of a majority of the freeholders . . . ."[6] Acting on this provision, William Henry Harrison, Indiana's first territorial governor, called for a popular referendum in 1804 to see if Indiana should establish its first General Assembly. Four hundred residents cast ballots and the results showed a majority of 138 in favor of the change.[7] On January 11, 1805, about six months before the first assembly convened, Congress reduced Indiana by almost half when it created Michigan Territory (including present-day Michigan and Wisconsin). The change left Indiana Territory with five counties: Knox, Clark, and Dearborn in the area that became the state and St. Clair and Randolph counties in the Illinois country.[8]

The second stage for Indiana Territory lasted from 1805 to 1816. During that time five general assemblies convened, each of which met in two sessions.[9] Governor Harrison and his supporters dominated affairs until 1809 when Congress split off Illinois from Indiana. Although the Northwest Ordinance forbade the introduction of slavery or involuntary servitude into any portion of the Old Northwest, the Harrison group favored slavery from the outset. Such was their influence that the first General Assembly passed a bill in 1805 allowing any person owning slaves outside of the territory to bring them into Indiana Territory and bind them to service.[10] This same session also approved a memorial to Congress seeking suspension of the slavery clause.[11] Analysis of the votes shows that proslavery sentiment was especially strong at Vincennes where Harrison had established his territorial capital. The French settlers in the Illinois country also favored the institution. Antislavery feeling was strongest in the southeastern counties of Clark, Dearborn, and after 1808, Harrison. These counties contained more than two thirds of the inhabitants of Indiana after the Illinois Territory was split off.

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[6] Kettleborough, *Constitution Making in Indiana*, 1:41-43.

[7] Logan Esarey (ed.), *Messages and Letters of William Henry Harrison* (2 vols., Indianapolis, 1922), 1:106-7, 112-13; Barnhart and Riker, *Indiana to 1816*, p. 345n.

[8] Kettleborough, *Constitution Making in Indiana*, 1:46-47.

[9] In addition to the regular sessions, there was a "Preliminary Session" of the House of Representatives in February, 1805, a "Rump Session"of both houses in October, 1809, and a "Special Session" of the House in June, 1814. A good synopsis of the work of the General Assembly during the second stage is in John D. Barnhart, "The Democratization of the Northwest Ordinance," introduction to Gayle Thornbrough and Dorothy Riker (eds.), *Journals of the General Assembly of Indiana Territory, 1805-1815* (Indianapolis, 1950), 1-17.

[10] Francis S. Philbrick (ed.), *The Laws of Indiana Territory, 1801-1809* (Springfield, Ill., 1930, reprinted Indianapolis, 1931), 136-39.

[11] The memorial is printed in Thornbrough and Riker (eds.), *Journals of the General Assembly*, 101-8.

The General Assembly was the staging area for the struggle, with antislavery sentiment strongest in the House. According to one source, during these years "the legislature gradually became the dominant branch of government."[12] When antislavery forces gained the upper hand in the House in 1808, the outcome was certain. These forces prevailed when several petitions favoring slavery were referred to a committee chaired by General Washington Johnston, a representative from Knox County. Although a strong friend of Governor Harrison, Johnston personally opposed slavery and his report declared that no law should ever pass "contrary to . . . the spirit and Letter of the ordinance . . . ." Johnston also stated explicitly that it was "inexpedient" to ask Congress for any modification so as to allow slavery in Indiana.[13]

Although Johnston's report failed in the council, where Harrison's friends still prevailed, it influenced enough votes in the assembly to elect Jesse B. Thomas as delegate to Congress. Thomas was outspokenly antislavery and was the first territorial delegate not handpicked by Harrison. His selection meant the governor lost an important voice in Washington. The separation of Illinois also weakened Harrison's political base as it gave the southeastern counties an overwhelming majority of the population. At the same time congressional action that greatly democratized Indiana politics helped seal the governor's fate. An act in 1808 amended the property qualification for suffrage to include ownership of a town lot of the value of $100. Another act in 1811 discontinued all property qualifications.[14] By other acts in 1809 Congress made the council a popularly elected rather than an appointive body; made the delegate to Congress a popularly elected office; and put apportionment for representation totally in the hands of the legislature.[15] Collectively, these developments ended the governor's political power. The dominance of the Indiana General Assembly for the remainder of the territorial years and throughout the period of state government under the first Constitution was assured.

Coincident with the rise of the General Assembly, the location of the seat of government and statehood replaced slavery as dominant political issues. The new majority, concentrated in the southeastern counties, would not long consent to the capital's continuing to be at Vincennes, on the western border. This majority also chafed under territorial status and was anxious to make its own laws unhampered by a governor's veto or the supervision of Congress. In 1811 the General Assembly, responding to these sentiments, passed an act moving the capital to Madison and adopted a memorial to Congress asking for permission to form a state constitution. Governor Harrison vetoed the move of the capital, while a congressional committee reported in favor of admitting Indiana when its population reached 35,000. At this point the War of 1812 interrupted the

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[12] Barnhart and Riker, *Indiana to 1816*, p. 314. The territorial struggle over slavery is recounted *ibid.*, 347-69, and in Beverley W. Bond, Jr., *The Civilization of the Old Northwest: A Study of Political, Social, and Economic Development, 1788-1812* (New York, 1934), 149-83.

[13] Thornbrough and Riker (eds.), *Journals of the General Assembly*, 232-38.

[14] Kettleborough, *Constitution Making in Indiana*, 1:48, 58-59.

[15] *Ibid.*, 1:56-57.

march toward statehood. By the time the next assembly met Indiana was "in such a dire financial condition . . . the movement for statehood was temporarily shelved."[16] In 1813, after Harrison had resigned as governor in order to fight the British, the General Assembly passed the act designating Corydon as the capital.[17] Two years later it passed a second memorial praying for statehood. Jonathan Jennings, Indiana's first popularly elected delegate to Congress, then serving in his fourth term, steered the appeal through the House where it passed on March 30, 1816. The Senate concurred on April 13 and on April 19 President James Madison signed the Indiana Enabling Act.[18]

The act reaffirmed the major conditions of the Northwest Ordinance and made substantial grants of land to the new state on condition that federal land sold within Indiana would be free of state and local taxes for five years following its sale. A constitutional convention was to meet at Corydon on June 10 after delegates were elected on May 13 from the thirteen organized counties. The convention met on schedule, approved the framing of a constitution by a vote of 34 to 8, and went to work.[19] Delegates conducted themselves in a businesslike way with "no political jockeying or buncombe addresses . . . in order."[20] They had the example of eighteen preceding states to build upon at a time when "one of the easiest things which Americans did, even on the frontier, was to make a constitution."[21] The end result—the Constitution of 1816—did not reflect brilliance or a great amount of originality. But it did belie the jaundiced view of James Dill, a delegate from Dearborn County, who stated that "Talents are most damnably scarce here—and he who has but a moderate share is looked upon as a great man."[22]

Article 3, establishing the Indiana General Assembly, was approved on June 27. The committee drawing it borrowed heavily from the constitutions of other

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[16] For the act moving the capital to Madison, see Thornbrough and Riker (eds.), *Journals of the General Assembly*, 429; for Harrison's veto, *ibid.*, 469-71; for the statehood memorial and congressional response, see Kettleborough, *Constitution Making in Indiana*, 1:66-67; quotation, Barnhart and Riker, *Indiana to 1816*, p. 414. A good account of the territory's financial condition is Donald F. Carmony, "Fiscal Objections to Statehood in Indiana," *Indiana Magazine of History*, 42 (1946), 311-21.

[17] See above, p. 4.

[18] Kettleborough, *Constitution Making in Indiana*, 1:68-77. See also Barnhart and Riker, *Indiana to 1816*, pp. 430-32; Carmony, "Fiscal Objections to Statehood in Indiana," *IMH*, 42:317-20.

[19] *Journal of the Convention of the Indiana Territory* . . . (Louisville, Ky., 1816), reprinted in *IMH*, 61 (1965), 97.

[20] Logan Esarey, *Organizing a State* (Indianapolis, 1918), 101.

[21] R. Carlyle Buley, *The Old Northwest: Pioneer Period, 1815-1840* (2 vols., Indianapolis, 1950), 1:70-71.

[22] Dill to Samuel C. Vance, June 16, 1816, Vance Papers, Indiana Historical Society Library, Indianapolis. In spite of Dill's low estimate of his colleagues, he liked what he saw: "My own prospects in the arrangement of the future state are such as will be pleasing to myself and gratifying to my friends." Dill subsequently was elected secretary of the Senate in the 2nd, 3rd, 7th, and 8th sessions. *Senate Journal*, 1817-18, 1818-19, 1822-23, 1823-24, p. 4.

states.[23] The article provided for a bicameral legislature that would meet annually on the first Monday in December unless directed otherwise by law. There was no limit on the length of sessions.[24] The lower house, designated the House of Representatives, would be elected annually. This house could never number less than twenty-five, or more than thirty-six members, as long as there were less than 22,000 eligible voters. When the number of voters increased beyond 22,000, there could never be less than thirty-six or more than 100 members. Each representative had to be at least twenty-one years old, a citizen, and a resident of the county he represented for a minimum of one year prior to his election. Terms in the upper house were established at three years. In the first session senators would be divided by lots into groups so that one third would serve terms of one, two, and three years each. Then one third of the Senate would be "annually chosen forever thereafter." The Senate must be at least one third but never more than one half the size of the House. A member had to be at least twenty-five years old, a citizen, and a resident of the state for two years. For one year prior to his election he must have resided in the county he represented.

With respect to apportionment, the article authorized the General Assembly to make an enumeration of eligible voters within two years. It required such an enumeration "in the year eighteen hundred and twenty, and every subsequent term of five years." The legislature was then to fix the number of representatives and senators and apportion them among the counties according to the number of white male inhabitants of full age in each. Bills could originate in either house, but "all bills for raising revenue shall originate in the house of Representatives." Each bill was to be read on three different days unless it was expedient to dispense with this rule. Each house could also alter, amend, or reject a bill originating in the other. The article placed no restrictions on public debt.

Each house chose its officers (except for the lieutenant governor, who would be the president of the Senate); each judged the qualifications and elections of its members; and each decided its own time of adjournment. Legislative journals

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[23] James Noble reported the article as committee chairman. Other members included Ezra Ferris, Samuel Milroy, John Benefield, and Daniel Grass. All five served in the early general assemblies, although Noble's tenure lasted only five days until he was elected U.S. senator. See *Journal of the Convention*, in *IMH*, 61:99, 149. For a list of delegates, with an indication of their previous and subsequent public service, see "Members of the Indiana Constitutional Convention of 1816," *IMH*, 26 (1930), 147-51. For a comparison of the Indiana Constitution with those of other states, see John D. Barnhart, "Sources of Indiana's First Constitution," *IMH*, 39 (1943), 55-94.

[24] Thirty-five general assemblies met under the 1816 Constitution. The 1st, 5th, and 6th convened in November, with the latter two convening earlier than usual on the call of Governor Jennings to deal with financial difficulties growing out of the Panic of 1819. The 9th session did not meet until January, 1825, in order to accommodate the move to Indianapolis. The rest met on the first Monday in December. The average length was six to seven weeks. The shortest session was the 3rd (1818-19), which lasted only twenty-seven days. The longest was the 24th (1839-40), which lasted eighty-five days. There were no special sessions. The 1851 Constitution changed the meetings to biennial sessions and limited regular sessions to sixty-one days. Special sessions were limited to forty days. Kettleborough, *Constitution Making in Indiana*, 1:322.

were also required and at the request of any two members the yeas and nays on any question would be published. Any member could dissent from and protest against any act or regulation and have the reason for his dissent made part of the record. Each house was also empowered to determine its own rules, punish members for disorderly behavior and, with two-thirds concurrence, expel a member. Article 3 also provided that both houses "shall have all other powers necessary for a branch of the Legislature of a free and independent State."[25]

The General Assembly was also granted or denied powers in several other articles. Article 1, the Bill of Rights, stipulated that laws could never be suspended "except by the Legislature, or its authority." It recognized the right of the people to instruct their representatives and apply to the legislature for redress of grievances. The bill also forbade the General Assembly to grant titles of nobility or to create offices for a longer term than good behavior.[26] Article 5, dealing with the judiciary, expanded the impeachment and trial of public officials to include those ranking as low as a clerk of county courts.[27] Article 8 spelled out the amendment process and provided that every twelve years the voters must decide whether to call a constitutional convention. It did not specify whether or not a ballot could be taken before twelve years, or more often than every twelve years. Any alteration that introduced slavery or involuntary servitude—except as punishment for crime upon conviction thereof—was forbidden.[28] Article 9 made it a duty of the General Assembly to provide for a general system of education "as soon as circumstances will permit." The system was to include township schools and a state university, with free tuition and equal access to all.[29] Article 10 allowed the General Assembly to establish a state bank and branches and forbade all other banks.[30] Article 11, section 13, forbade legislators and other officers of state government to hold more than one lucrative office at the same time. Section 16 set salaries at $1,000 a year for the governor; $400 a year for the secretary of state, the auditor, and the state treasurer; and $800 a year for judges of the Supreme Court and the presidents of the circuit courts. After 1819, the legislators could increase these salaries, including their own, but no increase "shall take effect, until after the close of the session at which such law shall have been passed."[31] Taken together, the provisions of the Constitution of 1816 concentrated great power in the General Assembly.

The Election of United States Senators

One of the more important powers a state legislature exercised under the United States Constitution was the power to elect United States senators. An

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[25] *Ibid.*, 1:89-96.

[26] *Ibid.*, 1:86-87.

[27] *Ibid.*, 1:106.

[28] *Ibid.*, 1:111-12. For convention referenda, see below, p. 114.

[29] *Ibid.*, 1:114.

[30] For the story of the General Assembly and the first and second state banks, see above, pp. 18-24.

[31] Kettleborough, *Constitution Making in Indiana*, 1:118-19.

act passed at the 1st session spelled out how the General Assembly would exercise this power. The act stipulated that the person receiving a majority of votes on a joint ballot of both houses was elected senator from Indiana.[32] Although the act seemed clear enough, achieving a simple majority sometimes proved difficult.

Indiana's first two senators, James Noble of Brookville and Waller Taylor of Vincennes, were elected on the first ballot in 1816 with a minimum of political maneuvering.[33] When Taylor's first term ended in 1819, he was contested for reelection because he had spoken in favor of admitting Missouri to the Union as a slave state. He was opposed by state Supreme Court Judge James Scott, but succeeded in winning a second term.[34] The first campaign for a Senate seat occurred in 1820 when James Noble, accompanied by Lieutenant Governor Ratliff Boon, toured the state south of White River to drum up support before the General Assembly convened. Noble won a second term on the first ballot by a vote of 20 to 13 over Judge Jesse L. Holman.[35]

The election was warmly contested in 1825 when Waller Taylor announced he would not seek a third term. Jonathan Jennings, who had resigned as governor after his election to Congress in 1822, was encouraged by supporters in Harrison County who petitioned their legislators saying that Jennings' "long Services[,] Experience and Integrity . . . entitle him to a Seat in the . . . Senate of the United States."[36] Jennings wrote in November, 1824, that "if [Governor William] Hendricks were out of the way, my election would be almost certain."[37] But Hendricks was very much in the race, a fact that led some voters to attack both the congressman and the governor. "Alternately resigning and making room for

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[32] *Laws*, 1816-17, pp. 183-84. Nine of the ten men who represented Indiana in the U.S. Senate during the pioneer period were elected in this manner. The tenth, Robert Hanna, Jr., served only from August 19, 1831, to January 3, 1832, following the death of James Noble. The appointment of Hanna by Governor James Brown Ray was in keeping with another provision of the law that allowed the governor to fill vacancies occurring while the General Assembly was out of session. Such appointees could serve until superseded by persons elected by the next General Assembly. Dorothy Riker and Gayle Thornbrough (comps.), *Indiana Election Returns, 1816-1851* (Indianapolis, 1960), 127-34. This volume contains a ballot by ballot breakdown of all U.S. Senate elections by the General Assembly during the pioneer period.

[33] *House Journal*, 1816-17, p. 16; *Senate Journal*, 1816-17, p. 12. Noble's election satisfied the interests of the populous southeastern counties while Taylor's election placated the supporters of former Governor William Henry Harrison in the southwest.

[34] *House Journal*, 1818-19, pp. 35, 58-59; *Senate Journal*, 1818-19, pp. 32-33. Taylor's margin was 21 to 15 over Scott, with Judge Isaac Blackford receiving 2 votes. When Taylor supported the Missouri Compromise in 1820 he was censured by a joint resolution introduced from the Senate into the House. See *House Journal*, 1819-20, pp. 76-77, 82-85, 91-92, 93-96, 101-5, 147-49. For reaction to the Missouri question in the Indiana General Assembly, see below, p. 147.

[35] Davis Floyd of Harrison County received four votes. *House Journal*, 1820-21, pp. 76-77. See also Ratliff Boon to John Tipton, September 13, 1820, and James Noble to Tipton, October 14, 1820, in Nellie Armstrong Robertson and Dorothy Riker (eds.), *The John Tipton Papers* (3 vols., Indianapolis, 1942), 1:227-28, 228-29.

[36] Resolution from citizens of Harrison County, October 6, 1824, in William H. English Collection, IHSL.

[37] Jennings to David G. Mitchell, November 18, 1824, in Dorothy Riker, *Unedited Letters of Jonathan Jennings* (Indianapolis, 1932), 252.

each other," said a writer in Indianapolis, Jennings and Hendricks "have played a game which has made the people of this state the derision of their neighbors."[38] This writer spoke for those who supported Supreme Court Judge Isaac Blackford to replace Taylor. The three-way contest required four ballots in January, 1825, before Hendricks was elected by a vote of 32 to 30.[39] In 1826 Jennings and Blackford tried again but James Noble won a third term by a vote of 40 to 28 over Blackford, with 10 votes for Jennings.[40] In 1830 partisanship became a factor when it took four ballots to reelect William Hendricks as a Clay man over the pro-Jackson Ratliff Boon.[41]

The selection of a successor to James Noble, who died February 26, 1831, provided the first protracted fight over naming a senator. Robert Hanna, Jr., of Marion County was appointed by Governor James Brown Ray to serve until the 1831-1832 General Assembly met. At the subsequent session the Jackson party was split between supporters of Samuel Judah of Vincennes and John Tipton of Logansport while the Clay men were divided between Jesse L. Holman of Aurora and Thomas H. Blake of Terre Haute. Although Tipton and Blake differed politically, both men were Freemasons and Tipton was state Grand Master in 1831. Holman and Judah were not Masons. It took seven ballots before Tipton defeated Holman by a vote of 55 to 36 with 5 votes going to Blake and 2 votes to Judah.[42] Holman and his supporters saw the result as "a compleat [*sic*] Masonic election" which Holman lost because Masons preferred a Jacksonian Mason to one who did not belong to the order. Shortly after the election Seth M. Levenworth wrote to Holman and said "Let those opposed to the craft have a secret understanding . . . to support one another" in the future.[43]

When Tipton came up for reelection at the 1832-1833 session, anti-Masons organized to defeat him. While Robert Hanna, Jr., was in Washington anti-Masons from New York and Vermont gave him documents purporting to expose the machinations of Freemasonry. Hanna was told to distribute the documents

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[38] See letter to the people from "Beta" in Indianapolis *Gazette*, November 30, 1824. Jennings was territorial delegate to Congress from 1809 to 1816 when he was elected governor. Hendricks replaced Jennings in Washington in 1816 and served until 1822 when Jennings resigned as governor to go to Congress and Hendricks was elected governor.

[39] *House Journal*, 1825, pp. 32-33; *Senate Journal*, 1825, pp. 21-22. See also Frederick D. Hill, "William Hendricks: Indiana Politician and Western Advocate, 1812-1850" (Ph.D. dissertation, Indiana University, 1972), 112-18. When Hendricks subsequently resigned as governor, the acting lieutenant governor, James Brown Ray, became acting governor. Ray had been elected president *pro tempore* of the Indiana Senate in 1824 when Ratliff Boon resigned as lieutenant governor to run for Congress. A resolution passed shortly before Hendricks' election to the U.S. Senate stated that Ray was therefore constitutionally entitled to fill the office of lieutenant governor for the period to which Boon was elected by the people. *Senate Journal*, 1823-24, pp. 237-38; *ibid.*, 1825, pp. 5, 18, 19.

[40] *House Journal*, 1826-27, pp. 92-93.

[41] Madison *Indiana Republican*, December 16, 1830; *Senate Journal*, 1830-31, pp. 125-26.

[42] *Senate Journal*, 1831-32, pp. 33-34, 45-46; Vincennes *Western Sun*, December 17, 1831. See also Robertson and Riker (eds.), *Tipton Papers*, 2:449-51, 457-58, 461, 469-70.

[43] Levenworth to Holman, December 24, 1831, quoted in I. George Blake, *The Holmans of Veraestau* (Oxford, Ohio, 1943), 24-25.

in Indiana to people who would make "a profitable use of them." He sent the material to state Representative David G. Mitchell of Corydon with a warning that it was "for your own *eye* prudence seems to require it *kept* in confidence."[44] Mitchell then used the documents during the state campaign of 1832 while soliciting the defeat of assemblymen whom he accused of supporting Tipton for the Senate because of the mystic tie. Representative Shadrach B. A. Carter articulated the sentiment of Tipton's opponents: "Masonry was going down[.] May God give it a speedy downfall & a finall over throw like Sodom &c[.]"[45] For his part, Tipton decried "that *curse of good sense* and *good feeling anti* masonry."[46] Although a few candidates who were Masons lost for the General Assembly, the effort against Tipton failed because his opponents could not agree on an alternative.[47] After a bitter contest that took nineteen ballots, Tipton won a full term.[48]

After the General Assembly divided formally into Democrats and Whigs in 1834, United States Senate elections became even more heated. At the sessions of 1836-1837 and 1838-1839, when the terms of William Hendricks and John Tipton respectively expired, Whigs enjoyed comfortable majorities. But they could not unite behind a single candidate. As a result the contests brought forth compromise candidates who were elected. On both occasions former Governor Noah Noble exhibited "an ambition to go to the U.S. Senate, but . . . his wish was never gratified." In 1836 Noble led for seven ballots; on the eighth he was passed by Oliver H. Smith of Connersville, and on the ninth ballot Smith won.[49] In 1838 Milton Stapp, Thomas H. Blake, Charles Dewey, and John L. Dumont all vied with Noble for Whig support.[50] On the Democratic side stood Tilghman A. Howard and Ratliff Boon, with John Tipton hopeful that a Whig deadlock

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[44] Hanna to Mitchell, September 3, 1832, English, IHSL, emphasis in original. Mitchell was expelled from the Masonic lodge at Corydon in 1828 for "un-Masonic conduct." This partially explains his anti-Masonic animus in the early 1830s. See Daniel McDonald, *A History of Freemasonry in Indiana from 1806 to 1898* (Indianapolis, 1898), 69.

[45] Carter to Mitchell, June 13, 1831, English, IHSL.

[46] Tipton to James B. Slaughter, February 26, 1832, in Robertson and Riker (eds.), *Tipton Papers*, 2:534. Emphasis in original.

[47] The son of one incumbent said the election took place at a time when "a fierce Anti-Masonic excitement swept over the whole country and overwhelmed [Jesse B.] Durham who was a mason." Durham file, English Legislator Collection, IHSL.

[48] *Senate Journal*, 1832-33, pp. 37-40. See also Ratliff Boon to David G. Mitchell, August 18, 1832, English, IHSL; and John Test to Noah Noble, September 10, 1832, Noble Papers, Indiana Division, Indiana State Library, Indianapolis.

[49] Smith's margin on the final vote was 79 to 63; Hendricks received 1 vote, Charles Dewey 2 votes, and 1 "scattered." *Senate Journal*, 1836-37, pp. 33-34. See also Noble file, Legislator, IHSL. Hendricks wrote from Washington after the election that "I have no reason to complain of the result for I have been a favored citizen of the state a good while." He added that some of the means employed against him were "calumnious, false & vile." Hendricks to David G. Mitchell, December 22, 1836, English, IHSL.

[50] See C. C. Graham to Noble, August 18, 1838, Noble Papers, Indiana Division, ISL; John L. Dumont to William G. Ewing, September 29, 1838, Ewing Papers, *ibid.*; Milton Stapp to William P. Dole, October 8, 1838, Dole Papers, *ibid.*

would return him. The election took eight days before Albert S. White, a Whig and a United States congressman from Lafayette, won on the thirty-sixth ballot.[51]

The most fractious Senate elections of the pioneer period occurred at the 1842-1843 and the 1844-1845 sessions when the terms of Smith and White respectively expired. In the former instance it took two months to determine a winner because the two parties were tied on joint ballot. In the latter case, Democrats prevented a vote even though Whigs enjoyed a nine-vote majority on joint ballot. In 1842-1843 Oliver H. Smith was the choice of most Whigs and Tilghman A. Howard was the favorite of most Democrats. Although both men canvassed the state for support in a race they knew would be close, neither was able to secure a majority on joint ballot when the General Assembly convened.[52] The first blow to Smith occurred when Senator Joseph C. Eggleston, a Whig from Switzerland County, resigned before the August state elections. Eggleston gave up his seat because he firmly believed that the state was honor bound to pay off the principal and interest incurred by the internal improvement bonds. He also believed that a senator must vote the way his constituents directed. Therefore, when Eggleston was instructed to vote for repudiation of the state debt, he demurred from committing "an act approaching . . . larceny . . . . They may have my office, but not my services in this matter."[53] Daniel Kelso, a nominal Whig who later voted with the Democrats in the Senate contest, won the special election to complete Eggleston's term.

At the August election in Steuben and DeKalb counties, Democrat Madison Marsh and Whig Enos Beall tied with 360 votes apiece. Beall then won by drawing lots. Marsh contested and was seated after a protracted hearing by the House elections committee. It was a strict party line vote, and the Democrats enjoyed a ten-vote majority.[54] Whigs denounced the seating of Marsh as "an affair of almost unparalleled infamy and political villainy."[55] In retaliation they delayed the Senate election until Democratic Representative Ezekiel L. Dunbar, known to be dying of consumption, expired on December 31. Then Democrats procrastinated until Jackson County sent Democrat Samuel P. Mooney to replace Dunbar.[56] When Mooney was seated on January 21, 1843, the count stood at 55 to 45 in favor of Democrats in the House; 30 to 20 in favor of Whigs in the Senate. For several ballots Oliver H. Smith and Tilghman A. Howard tied, with Whig Daniel Kelso refusing to vote for Smith and Democrat David Hoover

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[51] *House Journal*, 1838-39, pp. 9-11, 45, 46-54, 56-61, 62-65, 76-84, 88-97; Robertson and Riker (eds.), *Tipton Papers*, 3:776-79.

[52] A good account of the various ploys by both parties is a series of articles by the assistant clerk of the House during the session. The series appeared in the Marion *Chronicle* during July, 1886. Andrew J. Harlan file, Legislator, IHSL.

[53] Eggleston file, *ibid.*

[54] *House Journal*, 1842-43, pp. 60-70, 103-6. See also Indianapolis *Indiana State Sentinel*, August 23, December 13, 1842.

[55] Indianapolis *Indiana Journal*, quoted in Indianapolis *Indiana State Sentinel*, December 20, 1842.

[56] For Dunbar's illness, Fort Wayne *Sentinel*, December 24, 1842; for the election of Mooney, *ibid.*, January 28, 1843.

refusing to vote for Howard.[57] On January 24, after Howard withdrew, Kelso and Hoover joined the other Democrats and Edward A. Hannegan replaced Smith as United States senator from Indiana.[58]

In 1844 Whigs enjoyed a nine-vote advantage in the House while the parties were tied in the Senate. Lieutenant Governor Jesse D. Bright, a Democrat, wanted to take Albert S. White's place. He believed he could succeed if the balloting were delayed for a year until the Democrats might have a majority. As president of the Senate, therefore, Bright indulged in "the first instance of daring and unscrupulous party strategy that had appeared in the State." Procedures for United States Senate elections had developed as a matter of courtesy over twenty-eight years. Balloting was by voice vote in joint session, but no law appointed a time or required the attendance of either house. The procedure was "so well established . . . that it was held as imperative as a law by every body, till Bright's ambition defied it."[59] The *Senate Journal* abounds with motions to adjourn or to table—anything to avoid the election. Bright himself cast the tie-breaking vote in favor of refusing to meet with the House on no fewer than eleven occasions.[60] His strategy paid off when he was elected United States senator by a vote of 80 to 66 on the first ballot at the 1845-1846 session.[61]

The machinations involved in the elections of Hannegan and Bright made the last Senate election of the pioneer period tame by comparison. In 1848 Democrats enjoyed margins in both houses totaling 87 to 63 overall. Whigs were thus reduced to making motions like one that the General Assembly would not vote for any man who was not publicly known to be opposed to the extension of slavery into the land of the Mexican Cession. Democrats countered with petulant motions of their own that no man would be selected "who owns more than two hundred and eighty Slaves, or holds any opinions, either important or necessary."[62] After two days of these games, the houses voted along party

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[57] David Hoover to Charles H. Test, February 3, 1843, Test Papers, Indiana Division, ISL.

[58] Hannegan was elected on the sixth ballot. *Senate Journal*, 1842-43, pp. 349-55. Whigs never forgave Kelso for his vote. Samuel W. Parker, who occupied the seat next to the senator from Switzerland County, declared he "would no longer sit by a traitor" and no senator occupied the seat for the rest of the session. See M. L. Bundy, "Hon. Samuel W. Parker," *The Indianian*, 5 (1900), 172-73. See also Daniel Kelso file, Legislator, IHSL. Hannegan was one of the more flamboyant and colorful men in the U.S. Senate during the 1840s. He gained national attention with his bombast in favor of "Fifty-four, forty or fight!" in 1844. In 1849 he was deprived of renomination when Indiana Democrats selected Governor James Whitcomb in his stead. See "Hannegan of Hoosierdom," Indianapolis *Sentinel*, July 13, 1891, in Hannegan file, Legislator, IHSL.

[59] See autobiographical sketch by Alexander B. Conduitt, in Conduitt file, Legislator, IHSL. Conduitt, a Whig, was a member of the House during the 1844-45 and 1845-46 sessions.

[60] *Senate Journal*, 1844-45, pp. 31-32, 52-58, 90-91, 92-94, 174-76, 226-30, 278, 295-96, 443-46, 498-502. For a sampling of newspaper reaction to Bright's maneuvering, see Indianapolis *Indiana State Sentinel*, January 16, 30, 1845; Indianapolis *Indiana Journal*, January 15, 1845; Evansville *Journal*, February 6, 1845.

[61] *Senate Journal*, 1845-46, p. 50.

[62] Whig President-elect Zachary Taylor owned 280 slaves in Louisiana. For motions by Whigs Joseph Robinson and Thomas D. Walpole and countermotions by Democrats Thomas M. McCarty, Smith Miller, and James H. Henry, *Senate Journal*, 1848-49, pp. 29, 33, 66-67.

lines to go into joint session and Governor James Whitcomb was elected handily on the first ballot.[63]

In addition to United States senators, other officers elected by the General Assembly on joint ballot under the 1816 Constitution included the secretary of state, the treasurer, and the auditor; the president judges of the circuit courts; and individuals such as the president of the State Bank whose office was provided for by law. The legislators also elected presidential electors until 1823 when they surrendered this power directly to the people. Usually these elections were perfunctory until the division of the legislature into political parties. After 1834 they followed the pattern of United States Senate elections as partisanship and bickering frequently delayed a decision for days.[64]

The General Assembly and the Governors

The Constitution of 1816 restricted the executive branch of state government in ways that ensured legislative ascendancy. Only the governor and lieutenant governor were popularly elected. (See Appendix A, Tables 2-3.) Other major administrative officers were elected by the General Assembly by majority vote on joint ballot. This meant the legislature controlled the selection of the treasurer of state, the auditor, and the secretary of state. Since, in addition, the governor could exercise only the most limited kind of veto, it was no exaggeration to state, in the words of the Fort Wayne *Sentinel*, that assemblymen could "render the efforts of the Governor vain and futile" because "all power is in reality vested in the Legislature."[65] Given this power structure, conflict with the executive was inevitable although, surprisingly, governors won the more serious confrontations during the pioneer period.

Under Article 4 the governor served a three-year term and no individual could serve more than six years in any nine-year period. The article made the governor commander-in-chief of the state's army, navy, and militia but he could not command personally in the field unless advised to do so by the General Assembly. His appointive power was limited to judicial nominations requiring the advice and consent of the Senate. All other offices were filled either by the General Assembly, by popular election, or according to the terms of laws passed by the General Assembly. Interim appointments by the governor to fill vacancies expired at the end of the next session unless confirmed by the legislature. The governor was to see that the laws were faithfully executed; he could remit fines and issue reprieves and pardons; he could recommend such measures to the legislature as he deemed expedient; and he could require written reports from administrative officers. In extraordinary circumstances he could convene a special session (none was called under the first Constitution), and in case of disagreement

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[63] *Ibid.*, 82-83.

[64] As one example, it took three days and twenty-two ballots to elect Royal Mayhew state treasurer in 1843 and two days and ten ballots to elect Horatio J. Harris state auditor. *Senate Journal*, 1843-44, pp. 92-93, 95-96, 99-102, 114-15, 119-21.

[65] Fort Wayne *Sentinel*, August 29, 1846.

between the two houses regarding adjournment, the governor could adjourn the legislature. The article also stipulated that the governor could veto laws and refuse to approve joint resolutions. As the *Indiana State Sentinel* pointed out, however, "this power . . . scarcely deserves to be called a *veto* power" since vetos were easily overridden. "A naked majority . . . in each branch, can . . . render [the governor] powerless, and pass any law they please."[66]

The first serious dispute with a governor arose in 1818 when Jonathan Jennings accepted appointment from the United States War Department to negotiate treaties with the Indians at St. Mary's in Ohio. When the negotiations took longer than expected, Jennings wrote to Lieutenant Governor Christopher Harrison that "it may be necessary for you to . . . discharge such duties as involve on the executive of Indiana."[67] Harrison interpreted this to mean that Jennings was designating him to be acting governor. Since Article 4 of the state Constitution forbade any person holding office under the United States to exercise the duties of governor, Harrison concluded further that Jennings had abdicated by accepting the federal commission.[68] After Harrison published these views in the press, Jennings' enemies seized upon the arguments and claimed the governor had indeed vacated his office. Upon returning to Corydon, Jennings refused to accept such an interpretation and claimed he was still governor. The matter stood unresolved when the 3rd General Assembly convened. "After considerable discussion in the Legislature, that body refused to institute impeachment proceedings against Governor Jennings," wrote Dorothy Riker. While impeachment technically was not the issue, much of what the legislature did during the first two weeks of the session took on the appearance of an intended impeachment, the first such proceeding in the history of the Indiana General Assembly.[69]

Most action took place in the House where Jennings' enemies were strongest. Some were intent on changing governors and they began on the first morning by inviting Harrison to explain to the House "the resignation of Jonathan Jennings." Another motion directed both men to explain "the true situation of the office of the Executive of this State." Harrison responded that he had nothing to say to the General Assembly, except as lieutenant governor and acting governor if he were recognized as such. For the first time Jennings refused to deliver his annual message in person, instead sending Secretary of State Robert A. New as his surrogate. Jennings also refused to provide any evidence such as his commission: "If I were in possession of any public documents, calculated to advance

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[66] See "The Veto Power," Indianapolis *Indiana State Sentinel*, March 11, 1848, emphasis in original. For the powers of the governor, see Kettleborough, *Constitution Making in Indiana*, 1:96-103.

[67] Jennings to Harrison, October 3, 1818, *House Journal*, 1818-19, pp. 47-48.

[68] See letter of Harrison in Vincennes *Western Sun*, November 14, 1818.

[69] Dorothy Riker, "Jonathan Jennings," *IMH*, 28 (1932), 234. Technically the issue was whether the governor vacated his office by violating the state Constitution. If he did, a further question posed itself: "Have the legislature power to decide in such a case?" Vincennes *Western Sun*, October 31, 1818.

the public interest, it would give me pleasure to furnish them." But Jennings had none.[70]

Samuel Milroy chaired the committee of inquiry and on December 12, at Milroy's instigation, the House elected William H. Gilkeson as its first sergeant-at-arms.[71] Since the processes issued by the speaker had to be executed by a sergeant-at-arms, the election of this officer became the first step in impeachment proceedings during subsequent general assemblies. Six men testified, including three who had been at St. Mary's with Jennings. But none of the eyewitnesses could remember seeing a commission. The secretary to the negotiators stated that "Being particularly engaged in writing . . . I paid not much attention to it." Another said he could not say what he saw. The third, Senator John Conner, was asked if he had seen the seal of the United States on any document. Conner replied "I am not able to say altho' near enough [to have seen it]." Charles Dewey was present as counsel for the governor but every time Dewey tried to cross-examine a witness, Milroy objected on grounds of irrelevancy: "this committee are not to enquire into the improper conduct of Lieutenant Governor Harrison."[72] At the conclusion it was ordered that Milroy report to a committee of the whole on December 15.

After hearing Milroy's report, which was not published in the *Journal*, the House resolved 15 to 13 that it was inexpedient to prosecute the inquiry further. As a result, on December 17, Christopher Harrison resigned because "the General Assembly have refused to recognize and acknowledge that authority . . . attached to the office [of lieutenant governor, and] the name itself . . . is not worth retaining." Jennings thought the House dropped the matter because "the Senate had nothing to do in the whole transaction." The governor enjoyed sufficient support in the Senate to prevent further action even if the House had drawn formal charges.[73]

Throughout the confrontation of 1818 both sides adhered to protocol and addressed their differences as gentlemen. This was not the case, however, when the same issue was raised against Governor James Brown Ray eight years later. Ray was a young (his opponents said immature), flamboyant lawyer from Brookville who had a flair for popular issues. He was elected to the House in 1821 and subsequently organized opposition to a poll tax on grounds that citizens should only be taxed in proportion to the property they owned: "the wealthy

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[70] *House Journal*, 1818-19, motions by George R. C. Sullivan and Samuel Milroy, 6, 7, 12-13, annual message, 18-24, communication from Harrison, 28, letter from Jennings, 43-44. Jennings explained later what happened to his written appointment: "I destroyed it in disgust." The governor defended his actions on grounds that other governors in other states had acted in like situations, and their negotiations had produced only good for their states. See Jennings to His Constituents, Madison *Western Clarion*, July 24, 1822, as quoted in Riker, *Unedited Letters of Jonathan Jennings*, 236-46, especially 240.

[71] *House Journal*, 1818-19, pp. 34, 38.

[72] For depositions of Thomas H. Blake, James Dill, John Conner, William Prince, Robert A. New, and William H. Lilly, *ibid.*, 41-50.

[73] For resignation of Harrison, *ibid.*, 59-60. See also Jonathan Jennings to Jesse L. Holeman [*sic*], December 19, 1819, in "Some Additional Jennings Letters," *IMH*, 39 (1943), 292.

should be taxed for their luxury, their pride, their pomp, and privileges.''[74] In 1822 Ray's constituents elevated him to the Senate where he helped pass a bill calling for a referendum on a new constitutional convention.[75] Ray favored a convention so that divorce and impeachment could be removed as legislative issues, thus saving "ten thousand dollars . . . spent annually . . . on subjects that could be heard and remedied before the Judiciary at small cost.''[76] Although voters rejected calling a convention in August, 1823, Ray's stand helped increase his stature with colleagues in the Senate. When Ratliff Boon resigned as lieutenant governor in January, 1824, these colleagues elected Ray president *pro tempore.* Ray then advanced from acting lieutenant governor to acting governor when William Hendricks resigned to go to the United States Senate in February, 1825.

Ray thoroughly enjoyed being acting governor and took relish in making full use of the powers vested in the office. In the summer of 1825, for example, he exercised his power to pardon by rushing to the gallows just as a poor wretch convicted of murder was set to hang. "Sir!'' Ray thundered, "there are but two persons known to the law, that can save you from hanging by the neck until you are dead; one is the Great God of the universe—the other is James Brown Ray, governor of the state of Indiana. The latter stands before you . . . you are pardoned.''[77] Such theatrics helped Ray win the governorship in August, 1825, after a spirited contest with Supreme Court Judge Isaac Blackford. But his long-winded, florid orations enraged Ray's opponents. For example, during the campaign of 1825 one newspaper described Ray's speaking style as "cold, vapid, and inflated, labored and pedantic . . . .''[78] One of these opponents, state Treasurer Samuel Merrill, organized an effort to have the General Assembly unseat Ray in 1826 when the governor accepted appointment by the United States War Department to negotiate land cessions with the Miami and Potawatomi Indians.[79]

As soon as the 11th session convened, Representative Merit S. Craig introduced a resolution stating that Ray "has forfeited his right to act in and fill'' the governor's office by violating Article 4 of the Constitution.[80] Since Ray

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[74] For protest of Ray and Benjamin V. Beckes, *House Journal*, 1821-22, pp. 347-48.

[75] *Senate Journal*, 1822-23, p. 227; *Laws*, 1822-23, pp. 121-22.

[76] Ray to his constituents, February 12, 1823, as summarized in Kettleborough, *Constitution Making in Indiana*, 1:xliii-xliv. For the complications with divorce and impeachment, see below, pp. 109-13.

[77] See George Pence, "Philip Sweetser and His Times,'' *IMH*, 23 (1927), 381-82.

[78] Lawrenceburg *Indiana Palladium*, June 17, 1825. Ray's inaugural address on December 7, 1825, was so verbose that neither house printed it in its journal. *House Journal*, 1825-26, p. 26; *Senate Journal*, 1825-26, p. 14. A decade later Ray was still given to long speeches: "He edified the [Indiana Van Buren] convention with a speech of some two or three hours length, filled with the most fulsome panegyrics [for friends] . . . and the most scurrilous abuse [for enemies].'' See Madison *Republican and Banner*, January 14, 1836.

[79] For Ray's appointment, Vincennes *Western Sun*, July 15, 1826; for Merrill's attack on Ray, Dorothy Riker and Gayle Thornbrough (eds.), *Messages and Papers Relating to the Administration of James Brown Ray, Governor of Indiana, 1825-1831* (Indianapolis, 1954), 218-20.

[80] *House Journal*, 1826-27, pp. 9-10.

showed no inclination to vacate his office, Craig's resolution touched off a debate over whether or not the governor should or could be impeached. Representative Horace Bassett argued that Ray "must be impeached before this House could notice the subject."[81] Charles H. Test replied that there was no need to impeach as "he [Ray] has removed himself."[82] Senator John Ewing objected to even considering the question because, since the lower house had not impeached, the Senate had nothing to decide. Ewing added that raising the question constituted folly "disgraceful to the state, and ruinous to deliberate legislation."[83] Craig's resolution failed in the House 27 to 31.[84] The stance of Lieutenant Governor John H. Thompson was one reason the effort did not proceed further. Thompson understood the heavy odds in Ray's favor because he had been a member of the committee of inquiry into Jonathan Jennings' conduct in 1818. Thus, unlike Christopher Harrison earlier, Lieutenant Governor Thompson showed no inclination to replace the governor.[85]

Relations between the governor and the General Assembly deteriorated still further after 1826. In his annual message of 1827 Ray called for action to make Indianapolis a railroad center. His proposal, quite advanced for that day, was dismissed by a Senate committee as "visionary."[86] The committee report was written with such unrestrained venom that Representative Samuel Judah cautioned the General Assembly to remember "A certain degree of courtesy is certainly due from the legislature to the governor of the state; even if in their opinion, his recommendations are improper."[87] During the gubernatorial campaign of 1828 executive-legislative relations worsened when Ray described supporters of Andrew Jackson as "an *outrageous, violent faction* [that] *ought to be put down by every good man in society*."[88] Although Ray won reelection in spite of Jackson's popularity in Indiana, his enemies in the General Assembly increased in number.

The constitutional requirement that the governor appoint Supreme Court judges with the advice and consent of the Senate brought things to a head during the 1830-1831 session when the breach between governor and legislature reached the widest point of the pioneer period. The first court appointments in 1816

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[81] Speech by Bassett on Craig's resolution, Lawrenceburg *Indiana Palladium*, January 13, 1827.

[82] Indianapolis *Indiana Journal*, December 12, 1826.

[83] John Ewing, from the Senate chamber, December 6, 1826, Vincennes *Western Sun*, December 16, 1826.

[84] *House Journal*, 1826-27, pp. 28-29.

[85] For Thompson's role in the effort against Governor Jennings, *ibid.*, 1818-19, pp. 5, 12-14, 40.

[86] *Senate Journal*, 1827-28, p. 77. Ray seemed to be obsessed with railroads at this time and the Senate possibly dismissed his proposal because of the governor's plan to "cut the tops of the trees off in the valleys to bring them on a level with the hills, and run the track over them to save grading and excavation." John H. B. Nowland, *Early Reminiscences of Indianapolis* (Indianapolis, 1870), 66.

[87] Judah to his constituents, December 19, 1827, Vincennes *Western Sun*, January 5, 1828.

[88] Lawrenceburg *Indiana Palladium*, July 12, 1828, emphasis in original. For highlights of Ray's campaign, see Riker and Thornbrough (eds.), *Messages and Papers of James Brown Ray*, 13-14.

were approved unanimously and immediately because Jesse L. Holman of Aurora, James Scott of Jeffersonville, and John Johnson of Vincennes balanced the claims of the eastern, central, and western parts of the state.[89] This arrangement continued until 1830 when Governor Ray refused to renominate Holman and Scott because he preferred two state senators whom he believed might help the governor become a United States senator. The result was "war . . . between the Governor and the Senate . . . till the very moment of adjournment."[90] Ray's first nominee, Isaac Blackford, was confirmed unanimously. But Dennis Pennington of the judiciary committee fought confirmation of the other two, state Senators Stephen C. Stevens and John T. McKinney. The battle included a furious exchange of letters between the committee and the governor; a secret session on the afternoon of January 28 when the appointments of Stevens and McKinney were confirmed 11 to 10; and a theatrical farewell address by retiring Senator James Watts, in which he expressed regret that "disgrace had fallen upon the State by [the] election of such a man [Ray] as governor."[91] The casualties included some customary amenities. At the end of the session, for example, Ray was asked the usual question—if he had any further communications to make. Ray replied that he did and the Senate immediately voted unanimously to adjourn *sine die*.[92]

The fight over court appointments in 1831 was just a skirmish in the almost constant warfare the legislature waged with Ray during his tenure as governor. On one occasion, in what might be called "The Case of the Overdue Book," the Senate education committee demanded that the governor return a copy of the Louisiana code to the State Library. With a puerility and pettiness that defied belief, Senator William C. Linton wrote "The committee trust your Excellency will believe that [he is] the organ through which the Senate proposes to exercise a due degree of watchfulness" over state property.[93] Ray returned the book, "but not because I recognize in the Senate, any right to make such a call. . . .

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[89] *Senate Journal*, 1816-17, pp. 58, 61. When Johnson died in July, 1817, Governor Jennings appointed Speaker of the House Isaac Blackford of Vincennes and he was confirmed unanimously at the 2nd session. *Ibid.*, 1817-18, pp. 14, 17, 25. Governor William Hendricks nominated Holman, Scott, and Blackford for second terms in 1823 and they were confirmed unanimously. *Ibid.*, 1823-24, pp. 43-44.

[90] Indianapolis *Indiana Journal*, February 9, 1831.

[91] The dispute can be followed in Riker and Thornbrough (eds.), *Messages and Papers of James Brown Ray*, 15-16, 621-25, 627-35, 639-41, 642-46. For Watts' speech, *ibid.*, 645-46n; for the confirmation vote, *Senate Journal*, 1830-31, pp. 388, 394-96, and Vincennes *Western Sun*, February 5, 1831.

[92] *Senate Journal*, 1830-31, p. 500. The only similar fight during the pioneer period over court appointments occurred in 1844 when the Senate refused its advice and consent to the nominees of Democrat Governor James Whitcomb. Whitcomb submitted seven different names on four separate occasions but only Isaac Blackford, a Democrat who enjoyed considerable Whig support, was confirmed. The other nominees, all Democrats, could not muster a majority vote. *Senate Journal*, 1844-45, pp. 544-45, 582-83, 633-34, 701-2. Whitcomb appointed Thomas L. Smith and Samuel E. Perkins after the session ended and they were confirmed by the Senate at subsequent sessions. Leander J. Monks (ed.), *Courts and Lawyers of Indiana* (3 vols., Indianapolis, 1916), 1:206-7.

[93] Linton to Ray, January 11, 1831, *Senate Journal*, 1830-31, p. 503. Ray borrowed the book for guidance in revising the Indiana state code, a task he never completed.

To the LAW . . . the Executive will submit, but not to [the Senate's] *extra-constitutional decrees*."[94] In response, a select committee took testimony from several individuals who attacked the governor for being careless with a library book.[95] Ray received the committee's report at 12 a.m. on the day of adjournment. He worked through the night composing his reply—a rambling, at times incoherent statement that occupied almost as much space in the *Journal* as the committee's report and supporting affidavits.[96] This time the Senate had no time to respond and thus ended the saga of the Indiana General Assembly versus Governor James Brown Ray.

When Noah Noble succeeded Ray in 1831, executive-legislative relations improved. Although Noble was the first governor to use a partisan label (Whig), and an executive who exercised the veto power during his second term (1834-1837) more widely than any predecessor, his interplay with lawmakers was characterized by steadfast cordiality.[97] After Noble left office, partisanship became a factor in differences between the governor and the legislature. After the early 1840s, most such conflicts revolved around vetoes.

Congress had granted an absolute veto to territorial governors in the Ordinance of 1787, a fact that sometimes led to bitter contests between assemblies and governors before the five states formed from the Old Northwest entered the Union. One result was that the Indiana Constitution of 1816 provided for only a "weak" executive veto and before the 1830s governors seldom exercised the power.[98] A bill in 1820 that confirmed George White in possession of the Jeffersonville-Louisville ferry was the first to be vetoed after statehood.[99] The

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[94] Ray to Milton Stapp, president of the Senate, January 11, 1831, *ibid.*, 249-50. Emphasis in original.

[95] *Ibid.*, 500-10.

[96] Ray to Stapp, February 10, 1831, *ibid.*, 546-52. Ray examined State Library records while preparing this reply and discovered that several senators, Supreme Court Judge Blackford, State Treasurer Merrill, and many others prominent in state government also had overdue books.

[97] Noble's custom of keeping "a Grocery in the Court House during the sessions of the Legislature, where he dealt out liquors by the glass" might have engendered the friendlier atmosphere. Indianapolis *Indiana Democrat*, November 2, 1836. When this newspaper was accused of slandering the governor for partisan purposes, editor Nathaniel Bolton gave particulars about Noble's hospitality during the 1831-32, 1832-33, and 1833-34 sessions at the Marion County courthouse. Bolton added that Noble "contaminated the new State Capitol [in 1836] by a Grocery of like character—and [Noble's supporters] dare not deny it."

[98] For vetoes before 1816, see Frank W. Prescott, "The Executive Veto in American States," *Western Political Quarterly*, 3 (1950), 98-101. Prescott distinguishes between "strong," "medium," and "weak" vetoes and includes Indiana with weak vetoes. According to Prescott, weak vetoes had these characteristics: a majority of elected or present members could override; a governor had less than five days to consider bills during sessions; he had less than five days to consider bills after adjournment; and vetoed bills must be returned to the next session or they became law as if signed by the Governor.

[99] *House Journal*, 1819-20, pp. 52, 252-56; *Senate Journal*, 1819-20, p. 173. This ferry was the most lucrative in the state and Governor Jonathan Jennings acted in deference to the claims of Marston G. Clark, an early Jeffersonville resident who served seven sessions in the General Assembly between 1820 and 1836. See Logan Esarey (ed.), *Messages and Papers of Jonathan Jennings, Ratliff Boon, William Hendricks* (Indianapolis, 1924), 96-98, 140.

act was repassed at the 1820-1821 session and became law.[100] Governor James Brown Ray vetoed assembly actions on two occasions for petulant reasons. In 1826 he refused to approve two joint resolutions praying for congressional acts on grounds that no general law required a governor to transmit memorials to Congress. The assembly repassed the resolutions and added a third requesting the governor to transmit them to each of Indiana's representatives and senators in Washington.[101] In 1830 Ray vetoed an act to have the General Assembly elect a public printer instead of awarding the contract to the lowest bidder as had been done previously. Ray acted when he ascertained that the printer of his choice could not be elected. His veto was upheld 25 to 35 in the House.[102]

Noah Noble vetoed three bills in 1834 because he said they contained provisions violating the right to trial by jury and other civil rights of defendants accused of crimes. These were the first bills to be questioned by a governor on constitutional grounds. In two instances the bills were repassed and approved with the offending sections deleted; in the third, the disapproved act and the veto message were tabled by the House.[103] In 1835 Noble vetoed a bill that he claimed diverted education funds unconstitutionally and there was no attempt to override.[104] When Noble vetoed another bill on essentially the same grounds in 1837, it was repassed and approved with the offending section eliminated.[105] Noble's last veto involved an appropriation of $75,000 from the state's internal improvement fund, which Noble claimed had passed without either house having knowledge of the provision. The House sustained the governor's veto by a vote of 31 to 1.[106]

There were only four vetoes between 1837 and 1843, during the administrations of David Wallace and Samuel Bigger. In 1838 the Senate discovered after final passage that an act contained unconstitutional provisions and asked Wallace to withhold his signature.[107] Wallace also returned an act passed in the

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[100] *House Journal*, 1820-21, pp. 98-99, 112, 247; *Senate Journal*, 1820-21, pp. 120-21; *Laws*, 1820-21, p. 120.

[101] *House Journal*, 1826-27, pp. 136, 175, 213-14, 231, 234-35, 248. See also Riker and Thornbrough (eds.), *Messages and Papers of James Brown Ray*, 201-3.

[102] *House Journal*, 1829-30, pp. 513-17; *Senate Journal*, 1829-30, pp. 394-97; Riker and Thornbrough (eds.), *Messages and Papers of James Brown Ray*, 517-22.

[103] For veto messages, see *Senate Journal*, 1833-34, p. 348; *House Journal*, 1833-34, pp. 475-76, 528. See also *Laws*, 1833-34, pp. 91-94, 98-101; Dorothy Riker and Gayle Thornbrough (eds.), *Messages and Papers Relating to the Administration of Noah Noble, Governor of Indiana, 1831-1837* (Indianapolis, 1958), 228-29, 230-31, 233.

[104] *House Journal*, 1834-35, pp. 625-27; Riker and Thornbrough (eds.), *Messages and Papers of Noah Noble*, 352-55.

[105] *House Journal*, 1836-37, pp. 444-45; *Laws* (local), 1836-37, pp. 47-50; Riker and Thornbrough (eds.), *Messages and Papers of Noah Noble*, 536-37.

[106] Riker and Thornbrough (eds.), *Messages and Papers of Noah Noble*, 538; *House Journal*, 1836-37, p. 486.

[107] See proceedings on "An Act to incorporate the Evansville Trust Company," *House Journal*, 1837-38, pp. 519, 568; *Senate Journal*, 1837-38, pp. 662, 732. The Senate resolution did not specify why the bill was unconstitutional. See also Dorothy Riker (ed.), *Messages and Papers Relating to the Administration of David Wallace, Governor of Indiana, 1837-1840* (Indianapolis, 1963), 135.

closing days of the 1838-1839 session and a House committee recommended that it not repass.[108] Governor Bigger vetoed a bill in 1842 that he claimed violated the Ordinance of 1787 because it taxed nonresident proprietors at a higher rate than residents. The assembly apparently revised the act to overcome the objections and it was approved.[109] During the same session Bigger returned a tax bill to the Senate on grounds that all bills for raising revenue must originate in the House. The day after the Senate sustained this veto, the same bill was introduced in the House and it eventually was passed and approved.[110]

After Democrats won the governorship in 1843, vetoes increased in frequency and votes to override sometimes took on partisan overtones. James Whitcomb vetoed at least fifteen bills between 1843 and 1848, including twelve during the 1847-1848 session. This was by far the largest number of vetoes at a single session during the pioneer period. In 1844, amidst the debacle over the collapse of the internal improvements system, Whitcomb was upheld when he killed a bill authorizing a turnpike company to issue certificates of indebtedness. While "credit is frequently necessary for the construction of works of general advantage," Whitcomb wrote, "there should be a limit . . . when resorted to in the form . . . of a depreciated currency."[111] During the 1847-1848 session, the parties were tied with 25 votes each in the Senate while Whigs enjoyed a 51 to 49 advantage in the House. Whitcomb's vetoes included a bill that honored an old claim from the "disastrous" system of internal improvement. This was overridden 30 to 17 in the Senate, with twenty-one Whigs and nine Democrats voting to override while four Whigs and thirteen Democrats voted to sustain.[112] The governor claimed that he was protecting the public interest against the power of lobbyists—"persons on the ground, at nearly or quite every session"—when he vetoed acts benefiting the White Water Canal Company and the New Albany Railroad Company. Three Whigs joined twenty-three Democrats to uphold the White Water Canal veto in the Senate, while seven Democrats joined twenty Whigs to override the railroad bill veto. This latter vote was denounced by the Democratic organ in Indianapolis as a shameless example of logrolling: "Members would go openly and unblushingly to others and say, 'go for my bill, and *any thing* you want shall receive my vote.'"[113] Other vetoes by Whitcomb that were upheld included acts to incorporate a Demosthenes society at Franklin College,

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[108] Riker (ed.), *Messages and Papers of David Wallace*, 353; *House Journal*, 1839-40, pp. 36-37.

[109] *House Journal*, 1841-42, pp. 517-18; *Laws* (general), 1841-42, pp. 169-70. See also Gayle Thornbrough (ed.), *Messages and Papers Relating to the Administration of Samuel Bigger, Governor of Indiana, 1840-1843* (Indianapolis, 1964), 398-400.

[110] Thornbrough (ed.), *Messages and Papers of Samuel Bigger*, 400-2; *Senate Journal*, 1841-42, pp. 524-25; *Laws* (general), 1841-42, pp. 74-75.

[111] *Senate Journal*, 1844-45, pp. 25-26.

[112] *Ibid.*, 1847-48, pp. 487-91. See also Indianapolis *Indiana State Sentinel*, March 11, 1848.

[113] Indianapolis *Indiana State Sentinel*, March 18, 1848, emphasis in original. For the veto message and vote to sustain on "An Act to amend an act . . . incorporating the White Water valley canal company," *Senate Journal*, 1847-48, pp. 271-74; for veto message and vote to override on "An Act for the benefit of the New Albany Railroad company," *ibid.*, 532-34.

a lyceum at Wabash College, and an act to vacate an alley in Cambridge City. While the objects of such bills might be "highly laudable," Whitcomb felt obliged to stop them in view of "the fearful and growing amount of mere special legislation."[114]

Concern about the ill effects of special, or private, legislation was especially pronounced as the state moved toward the Constitutional Convention of 1850-1851. Not only did such acts consume enormous amounts of legislative time, they also were frequently drawn with great haste. Joseph A. Wright, the last governor of the pioneer period, described the legislative process involved in many private bills in a veto message in 1851: "I cannot but regard the passage of a bill . . . on the same day of its introduction, by repeated suspensions of the rules, and without reference to a committee, as an instance of hasty legislation . . . ."[115] Governor Wright's experience with vetoes during the 1850-1851 session suggests that private legislation was more important than party discipline. Although Wright was a Democrat with huge partisan majorities in both houses, in all instances but one he was overridden.[116] The governor acquiesced in the vetoes even though "I have seen nothing to induce me to change my opinions." Under the Constitution he had no choice and so he left lawmakers to their constituents while "respectfully" requesting that his objections be placed in the journals.[117]

Legislative Apportionment

The Constitution of 1816 stipulated that an enumeration of eligible voters must be made every five years in order for the General Assembly to fix the number of members in each house and apportion them among the several counties. The provision was essential to representative government and the legislators of the pioneer period regularly passed the required legislation at the proper time.[118] The task proved onerous from the beginning, however, and the methods used to arrive at each apportionment were frequently inexplicable. The closest student of the subject, Leon H. Wallace, has stated "it is apparent that one commonly-held belief concerning the history of apportionment acts is based upon a misconception—namely the notion that in the beginning it was simple and easy . . .

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[114] Vetoes of the college bills, *ibid.*, 635; veto of bill to vacate an alley, *ibid.*, 600.

[115] Veto message for "An Act for the benefit of the New Albany and Salem Railroad Company," *ibid.*, 1850-51, pp. 97-101, quotation, 101.

[116] Democrats controlled the House 65 to 35 and the Senate 33 to 17. Nonetheless, Wright was overridden on bills benefiting railroad companies by margins that reached 43 to 3 and 38 to 3 in the Senate. *Ibid.*, 102, 114. The Senate sustained Wright in his veto of "An Act for the relief of Ann Blythestone, of Allen County" by a 10 to 34 margin. *Ibid.*, 219-20.

[117] *Ibid.*, 630-31.

[118] Enumerations were made in 1820 and every subsequent term of five years through 1850; apportionment acts were passed in 1821, 1826, 1831, 1836, 1841, 1846, and 1851. In addition, there were interim apportionment acts in 1823, 1829, and 1834 to accommodate counties formed between official apportionments. A fourth interim act in 1843 gave Brown and Monroe counties one representative each in lieu of two representatives jointly. See "Apportionment Acts," in *A Biographical Directory of the Indiana General Assembly* (2 vols., Indianapolis, 1980, 1984), Vol. 1, *1816-1899*, Vol. 2, *1901-1984*, 1:575-81, for complete information on the districts formed by each apportionment act during the pioneer period. See also Appendix B, Maps 1-22.

because the counties were all about the same size." Wallace has shown that under the 1815 census some counties had five times the population of the smallest and that the disparity grew as new counties were formed after statehood.[119]

The first apportionment in 1821 evolved from a House committee which recommended that a ratio of 700 electors for each representative and 1,800 electors for each senator be fixed.[120] The ratio actually employed, however, cannot be determined because no record of the 1820 enumeration was kept. Indeed, a report by Secretary of State Robert A. New suggests a complete count was never made: "I might be justifiable in stating that but few of the returns, can be said to be strictly official."[121] The legislative process occasioned several roll calls as both houses grappled with "fractions"—counties with either too great or too small a population to constitute a House or Senate district. The bill in its final form dealt with fractions in two ways. First, in a departure from the apportionment used in the Constitution, which divided the House into single-county districts only with every county having at least one representative, it created four single-member, multi-county House districts. Second, the bill divided one county, with a specific portion placed in one district and the remainder in another.[122] Since the United States Census of 1820 showed a population of 147,600 for Indiana, the 1821 act also increased the number of senators to sixteen and the number of representatives to forty-three. An interim act of 1823 added three more representatives and one more senator from the counties of the New Purchase.[123]

At the 1825-1826 session apportionment embroiled lawmakers in a bitter struggle even though members had not yet divided into political parties. The houses were divided on the questions of how large each should be and how to handle fractions. A correspondent for the *Indiana Palladium* described the proceedings:

> The lower house wishes to increase the ratio, and passes a bill accordingly, which is sent to the Senate for concurrence; the Senate immediately either strikes it out from the enacting clause and inserts its own in lieu thereof, or amends it in some other way to suit its views, & then sends it back to the house. In this way it passes backward and forward from day to day, without effecting any thing.[124]

One disillusioned representative concluded after weeks of protracted wrangling that if the General Assembly did not pass the bill it would "tend to the dis-

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[119] Leon H. Wallace, "Legislative Apportionment in Indiana: A Case History," *Indiana Law Journal*, 42 (1966), 14. This article is definitive on the question of apportionments from the time Indiana entered the Union in 1816 until the court-ordered reapportionment of 1965. The appendices include graphs, statistical tables, and maps for each apportionment of each house. In several instances, Wallace found the population figures contained in the enumeration reports submitted by state officials during the pioneer period to be either incomplete or erroneous. In those instances, Wallace revised the figures, and the numbers used by Wallace have been relied upon in this study.

[120] *House Journal*, 1820-21, p. 117.

[121] *Senate Journal*, 1820-21, p. 95. New showed, "without particularising the counties," that the count from most of the state was incomplete. See also Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:15. Wallace concludes that analyses of acts based upon the enumerations of 1820, 1825, and 1830 cannot be made because records of the enumerations did not survive.

[122] *House Journal*, 1820-21, pp. 193-99; *Senate Journal*, 1820-21, pp. 107-8, 148-49; *Laws*, 1820-21, pp. 87-90. See also Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:14.

[123] *Laws*, 1822-23, pp. 110-11.

[124] Lawrenceburg *Indiana Palladium*, January 20, 1826. The route of the bill can be followed

organization of the legislative department of the government."[125] The act that finally emerged increased the Senate by four to twenty-one members and the House by twelve to fifty-eight members. Fractions were resolved with an innovation that gave the contiguous counties of Fayette and Union one representative each "and one additional representative to be elected each year alternately . . . commencing in the said County of Fayette." This meant Fayette would have two representatives in three of the five years covered by the act while Union would have two representatives in two of the five years.[126] This system of representation, widely used with ingenious variations in subsequent years, came to be called "floats" because representation "floated" between districts in alternate years of an apportionment. The continued creation of new counties led to a second interim apportionment act in 1829 that added two senators and five representatives in the recently opened northern part of the state.[127]

In 1830-1831 it took most of the session to get an act acceptable to majorities in both houses because, in the words of Representative John Zenor, "There was so great a variety of interests clashing together that it was impossible to procure a fair apportionment."[128] These conflicting interests included whether or not to begin construction of the Wabash and Erie Canal; the selection of a southern terminus for the Michigan Road; and some murmurings of partisanship as members divided into pro- or anti-Jackson factions in preparation for the 1832 presidential election. The first bill reported in the House was stripped, struck, and replaced by a substitute submitted by Alexander Lowry of Scott County.[129] Lowry's bill increased the membership of both houses. When it passed by a vote of 38 to 23, eleven members, led by Ezra Ferris of Dearborn County, protested because the bill gave "some of the members of our political family triple the influence in her councils it does to others . . . ." The protesters calculated the additional "burthen to be imposed on the people" by adding new members at $20,000 for the five years the act would be in force. Thirty supporters of the bill replied that the protesters' only intent was "to cast censure upon the friends of the measure . . . [and] to laud the protestants for an eagle-eyed watchfulness over the Constitution . . . ."[130] When the Senate refused the House bill, a conference

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in *House Journal*, 1825-26, pp. 285-88, 290-96, 312-18, 323; *Senate Journal*, 1825-26, pp. 67, 80, 177-78, 181, 214-15.

[125] See A[bel] C. Pepper to his constituents, January 6, 1826, Lawrenceburg *Indiana Palladium*, January 13, 1826. Pepper added that he would have to vote for a bill out of "sheer necessity, and the obligations I feel under to support the constitution of my country," but he expressed little confidence a fair and equitable apportionment would result.

[126] *Laws*, 1825-26, pp. 5-6. See also Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:15-16.

[127] *Laws*, 1828-29, p. 12.

[128] Zenor to David G. Mitchell, January 27, 1831, English, IHSL.

[129] *House Journal*, 1830-31, pp. 194-200, 220-22.

[130] *Ibid.*, 223-24, 237-40. An analysis of the two factions shows no division on party grounds as six pro-Jackson and four anti-Jackson members signed the protest while sixteen anti-Jackson and nine pro-Jackson members signed the reply. There was a sectional influence, however, as, except for Ferris, the protesters represented the older southern counties of Harrison, Floyd, Washington,

committee reported a substitute that the upper house approved 12 to 11 only to have the House refuse the compromise. It took until January 28, 1831, before both houses finally agreed.[131]

The act added seven senators and twelve representatives to increase the houses to thirty and seventy-five members respectively. Although population varied widely from county to county, no county received more than one senator. For example, according to the United States Census of 1830, Wayne County numbered 18,589 people while Parke numbered just 7,534 people. Each received a Senate seat, but to compensate Wayne was given four seats in the House and Parke only one. The number of floats increased to three with the alternate year-contiguous county scheme of 1826 repeated except in one instance where a multi-county district was included as one of the pairs. The act also introduced another kind of district by granting Montgomery and Clinton counties two representatives jointly. These were contiguous counties, one of which did, and one of which did not, have sufficient population to be entitled to a seat of its own.[132] In 1834 a third interim apportionment act added one senator and three representatives after Governor Noah Noble stated in his annual message that the newest counties in northern Indiana deserved more representation because they encompassed one sixth of the state.[133]

The 1835-1836 session faced two factors that made an increase in size likely when the General Assembly reapportioned. First, population had grown so rapidly that in 1835 an estimated 100,000 white males twenty-one years and older lived in Indiana.[134] Second, twenty-one new counties had been formed since the apportionment of 1831. These factors, plus what Leon Wallace has termed "this aura of expansiveness" engendered by the Mammoth Internal Improvements Act, led assemblymen to increase their numbers from thirty-one to forty-seven in the Senate and from seventy-seven to one hundred in the House. The apportionment was accomplished with surprising ease, especially in view of the fact that the General Assembly was divided into two political parties with nearly equal strength in both houses.[135] Although ratios of actual to ideal representation (an ideal Senate district would have contained 2,128 voters and an ideal House district

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Orange, and Lawrence. Ferris was censured for his conduct: "Dearborn . . . is entitled to 4 members in the lower house, and most probably would have had that number, had it not been for the splenetic course of Dr. Ferris, which disgusted and offended almost every member in the house." Lawrenceburg *Indiana Palladium*, February 26, 1831. Ferris was defeated when he ran for reelection in August, 1831. Riker and Thornbrough (comps.), *Election Returns*, 208.

[131] *Senate Journal*, 1830-31, pp. 293-331, 382-84, 390; *House Journal*, 1830-31, pp. 406-7.

[132] *Laws* (revised), 1830-31, pp. 503-4. See also Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:16-17.

[133] Riker and Thornbrough (eds.), *Messages and Papers of Noah Noble*, 202. See also *House Journal*, 1833-34, pp. 145, 205-6; *Senate Journal*, 1833-34, p. 71; *Laws*, 1833-34, pp. 3-4.

[134] Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:Appendix C-1.

[135] *House Journal*, 1835-36, pp. 127-29, 170; *Senate Journal*, 1835-36, pp. 331-32, 368, 375, 391-93. The Senate contained sixteen Whigs, fourteen Democrats, and one member, Daniel Sigler of Putnam County, whose affiliation could not be determined; the House contained forty Whigs and thirty-seven Democrats.

1,000) deviated sharply in each house, there seemed to be compensation in one house for under-representation in the other. Thus counties with population in excess of the ideal for one representative, but less than that for a senator, were given a seat in each house so that their total representation would approach the norm.[136] The number of floats increased and districts floated "on a more complicated schedule than theretofore." Fifteen counties were divided into five districts of contiguous counties with the total representation remaining constant throughout the term of the apportionment. The counties within each district, however, were given representation which varied from year to year.[137] Although the system was indeed complicated, the general absence of complaints in the party press suggests that the floats of 1836 were not launched for partisan purposes.

Party considerations governed apportionment five years later when the Whigs took advantage of a 33 to 14 margin in the Senate and a 77 to 23 margin in the House. They were circumspect enough that it took the Democratic organ in Indianapolis until the 1842 state elections to decipher the strategy: arrange floats in such a way that Whig counties would get an additional representation when United States Senate seats were at stake at the 1842-1843 and 1844-1845 sessions.[138] This strategy did not succeed since no Whig was elected to the United States Senate from Indiana after 1838. Nonetheless, the 1841 "fraudulent apportionment" based upon "fraudulent floats" only makes sense in terms of partisan gerrymandering.[139] Representation was supposed to be based upon the 1841 enumeration, estimated by Leon Wallace at 127,607 eligible voters.[140] Instead, the ratio of the largest to the smallest districts in the Senate (with its membership raised to the full complement of fifty) was 2.9 to 1 and in the House 3.1 to 1. Since the apportionment continued the practice of adjusting total representation, the Senate apportionment distorted ratios as 20 per cent of the members came from counties over-represented in the Senate. The most incongruous feature was the emergence of "floats which really floated." For the first time, floats were created without regard to contiguity. Some floats also did not pair for alternate years of representation. For example, Jefferson County was given two representatives, plus an additional one in 1841, 1843, 1844, and 1845. But no county contiguous to Jefferson was specified for an extra representative in 1842. By inference, Rush County, separated from Jefferson by almost forty miles, was paired with Jefferson since Rush was given an extra representative in 1842. Not even inference can explain many other instances because there were so many

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[136] *Laws*, 1835-36, pp. 3-5; Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:Appendices C-1, C-2; *BD*, 1:577-78.

[137] Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:17-18.

[138] Indianapolis *Indiana State Sentinel*, August 9, 1842.

[139] *Ibid.*, December 26, 1844. The Democrat organ in the capital city made this characterization of the 1841 apportionment in the midst of the session where Lieutenant Governor Jesse D. Bright successfully delayed the Senate election until several floats would return to the Democrats the following year. See above, p. 52.

[140] Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:Appendices D-1, D-2.

floats abroad that it is impossible to discern any pattern.[141] Democrats saw the results and waited their turn. A Whig newspaper warned early in 1845 that if the opposition won a majority the state would be "gerrymandered in all unseemly shapes, without the least regard to justice or equality."[142]

The Whigs' worst fears were soon realized: Democrats controlled the House in the ensuing General Assembly, 56 to 44. In the Senate, the parties were tied at twenty-five votes apiece, with the vote of the Democratic lieutenant governor decisive. The apportionment passed at the session was supposed to be based upon the enumeration of 1845, which showed 155,409 eligible voters in the state.[143] The conclusion is inescapable that party considerations were overriding. For example, the bill sailed through the House on first consideration by a vote of 49 to 43.[144] Whig Representative George W. Julian informed his father of the result: "The bill . . . passed the House yesterday, by which the Whigs are gerrymandered out of their rights for the next five years."[145] Final action was delayed in the Senate by various motions to amend, to table, or to adjourn. Floats engendered the most debate, but the bill passed near the end of the session in essentially the same form as approved by the House.[146] Leon Wallace studied the resulting law and concluded "the act of 1846 almost defies understanding, description, or analysis."[147] Floats reached flood tide, involving thirty counties and thirty-nine representatives. Fourteen of the thirty counties were simply assigned representation that varied from year to year with no indication of any pairing. There was also no regard for a consistent total within areas composed of contiguous counties. A Whig newspaper in Evansville explained what occurred after it analyzed the results of the 1846 state election: "The locos [Democrats] have districted the State so as to secure to their party all the floating vote."[148]

Voters in general must have had little understanding of the complexities in the 1846 act. One consequence was growing discontent with floats as the state moved toward the Constitutional Convention of 1850-1851. The delegates to that convention were elected in accordance with the act's provisions and, as Leon Wallace has pointed out, this meant those counties and districts that received extra seats in 1850 had a more generous representation than those whose floats had come in previous years. Also, since in the General Assembly one senator had a voting power equivalent to two representatives, counties over-represented in the Senate to achieve proper legislative balance were shortchanged at the convention where the senatorial delegate's vote was the same as the vote of a

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[141] *Laws*, 1840-41, pp. 48-50; Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:18-19, Appendices D-1, D-2.

[142] Richmond *Palladium*, January 24, 1845.

[143] Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:Appendices E-1, E-2.

[144] *House Journal*, 1845-46, pp. 391-94, 420-22.

[145] Julian to Isaac Julian, January 8, 1846, George W. Julian Papers, Indiana Division, ISL.

[146] *Senate Journal*, 1845-46, pp. 136, 202-10, 282, 288-94, 362.

[147] Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:19.

[148] *Ibid.*, 19-20, Appendices E-1, E-2, E-3; *Laws*, 1845-46, pp. 25-27; Evansville *Journal*, August 7, 1846. This newspaper consoled itself with the observation that Democratic policies would lead to disaster and the voters would turn Democrats out of office by 1850.

House delegate. Thus, the convention was less fairly "apportioned" than the legislature for the year 1850, and variances were greater than those for the average of the five-year period covered by the act of 1846.[149] In this context, it was inevitable that the convention would give careful attention to floats and apportionment as it rewrote the state's basic charter. Before the convention had time to act, however, the last apportionment of the pioneer period passed at the 1850-1851 session.

The 35th General Assembly convened while the convention sat, with Democrats in control of the Senate 33 to 17 and the House 65 to 35. Members were aware of the discontent with the previous apportionment. Given this fact, and given the huge Democratic majorities, it is not surprising that floats were reduced to thirteen counties with greatly simplified patterns in an act which passed with relative ease.[150] On the surface, apportionment appeared far more equitable than that of 1846. Upon analysis, however, it is seen that the act departed further from population standards than any of its predecessors. The enumeration of 1850 showed 188,675 eligible voters in the state.[151] Thus, an ideal House district would contain 1,887 voters. But the act gave representation to eleven counties and two districts which did not contain even two thirds of the population for an ideal district. Decatur, with a population of 2,969, had one representative, as did Blackford, with 516 population, a ratio of 5.75 to 1; but Decatur, with one Senate seat, was not seriously under-represented. Brown, with a population of 774, had one representative and shared a Senate seat with Monroe. Its over-representation made Brown the most favored county in the state. Because of such discrepancies, Leon Wallace has written "the conclusion is inescapable that [political] considerations must have determined many provisions of this act." He added that it contained the most flagrant examples of over-representation of any apportionment in Indiana history.[152] Since the first two sessions under the Constitution of 1851 refused to pass an apportionment bill, the 1851 act remained the basis of representation until the 1858 special session.

Congressional Districting

The division of Indiana into congressional districts proved less complicated and controversial than legislative apportionment. In fact, before 1833 districting was quite perfunctory with Indiana having one congressman until March, 1823, when the number increased to three based upon the census of 1820 and the first districting act passed at the 1821-1822 session.[153] This act divided the state into

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[149] Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:20.

[150] *House Journal*, 1850-51, pp. 511, 597, 614-16, 629, 631-35, 653-57, 687, 722, 725; *Senate Journal*, 1850-51, pp. 287-88, 324-26, 369-71, 382-83, 591-92, 596, 606.

[151] Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:Appendices F-1, F-2.

[152] *Laws*, 1850-51, pp. 9-10; Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:20-21, Appendices F-1, F-2, F-3; *BD*, 1:580-81.

[153] *Laws*, 1821-22, pp. 43-45. At the 1830-31 session the General Assembly attached the counties formed since 1821 to the 1823 districts in the same western, central, and eastern pattern. Thus

nearly equal geographical districts—western, central, and eastern. (See Appendix C, Maps 51-52.) A mild controversy arose at the 1832-1833 session after the 1830 census showed Indiana was entitled to seven congressmen. State Representative William Wallace, a member of the conference committee that fixed district boundaries, "found it a very difficult matter to lay them off so as to give general satisfaction, but we came as near as the nature of the case would admit of."[154] Residents of Cass County complained because they were placed in the sixth district, composed of Marion and surrounding counties in the central part of the state, even though Cass was separated from the rest of the district by the Miami Reservation. This made Cass the only county that did not enjoy contiguity with its district. (See Appendix C, Map 53.) This act passed while Representative Walter Wilson of Logansport was ill, and although he protested upon his return, he was unable to alter "this unnatural division."[155]

The 1840 census raised the number of Indiana's congressmen to ten; consequently, partisan jockeying and gerrymandering came to the fore when the 1842-1843 session attempted the last redistricting of the pioneer period. This was the session where Democrats enjoyed a ten vote margin in the House while Whigs had a majority of ten in the Senate. It proved nearly as difficult for the General Assembly to pass a districting bill as it was to elect Edward A. Hannegan United States senator. Roll calls were demanded in each house on practically every move.[156]

John W. Davis of Sullivan County, a former congressman and former speaker of the Indiana House who was one of the state's prominent Democrats, bargained with Whig Senator Samuel W. Parker of Fayette County to draw the bill. Members of both parties denounced the results. "Not the least respect has been paid to identity of interest, contiguity of territory, or the number of inhabitants which by the law of Congress each district should contain," said Senator Joseph Sinclair, a Democrat from Allen County.[157] Sinclair joined Whig Senator John Ewing of Knox County in protesting because the bill was "flagrantly unjust, iniquitous, and illegal."[158] Another protester, Democrat David B. Herriman, moved to amend the title to "a bill to jerrymander [*sic*] the State and divide the interest of the people." Whig Thomas D. Walpole then proposed to add

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Vermillion, Hendricks, Montgomery, Tippecanoe, Clinton, Fountain, Warren, and Carroll were attached in the west; St. Joseph, Hamilton, Elkhart, Johnson, Shelby, Madison, Hancock, Boone, and Cass in the center; and Henry, Rush, Decatur, and Allen in the east. *Laws* (revised), 1830-31, pp. 101-2.

[154] Circular to the citizens of Martin and Daviess counties from William Wallace, Vincennes *Western Sun*, March 16, 1833.

[155] The act seemed to pass with minimal attention in both houses. *Senate Journal*, 1832-33, pp. 32, 101-5; *House Journal*, 1832-33, pp. 150-52, 312-15. For the reaction of Representative Wilson and his complaining constituents, see Logansport *Cass County Times*, February 14, 1833.

[156] *House Journal*, 1842-43, pp. 269-70, 280-82, 300-2, 424-32, 622-24, 630; *Senate Journal*, 1842-43, pp. 374-75, 432-36, 440-45, 449, 600.

[157] J[oseph] Sinclair, from the Senate chamber, February 4, 1843, in Fort Wayne *Sentinel*, February 11, 1843.

[158] Protest of John Ewing *et al.*, *Senate Journal*, 1842-43, pp. 642-45, quotation, 642.

"as the Senator from Noble [Herriman] considers himself more competent to district the State than the General Assembly." When Herriman moved to amend Walpole's amendment by adding "as the Senator from Hancock [Walpole] has been bought and sold three times this winter," a fist fight nearly erupted. Later, both senators apologized publicly for remarks "made under excitement" which did not meet their "deliberative approval."[159] The Democratic organ in the capital sympathized with party members who were upset by the Whig gerrymander. But the newspaper was pleased by the results and assured readers that Democrats would give a good account of themselves in the next election.[160] This assessment proved well-founded as eight of the ten representatives elected were Democrats. They included John W. Davis, who returned to Congress from the new sixth district with almost a 1,000 vote majority.[161]

Development of a Two Party System

Indiana achieved statehood in the interim between what Richard P. McCormick has called the first and second American party systems.[162] By 1816 the Federalist party was extinct except for a few places in New England. Elsewhere, almost everyone in public life was a Jeffersonian Republican. In states such as Indiana, established after the first party system had lost its vitality, politics was never organized on the basis of parties. There were some political cleavages during the territorial period, the most serious of which was over slavery. After that issue was settled, politics became a matter of factionalism and personalities that made Indiana a no-party rather than a one-party state. It remained so during at least the first decade of statehood as what Logan Esarey styled a "Hoosier Triumvirate" guided state affairs. Jonathan Jennings, William Hendricks, and James Noble were so skillful that no challenging faction arose and state elections were devoid of partisanship.[163] This situation makes Indiana an especially intriguing illustration of McCormick's thesis "that parties did not form over state matters, that state politics could be conducted without political parties, and that parties were formed chiefly to contest for the presidency."[164]

At the county level during these early years, where members of the General Assembly were most involved, candidates were self-nominated. They relied on personal popularity and prowess on the stump to secure election and never ran

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[159] See joint statement by Walpole and Herriman, from the Senate chamber, February 10, 1843, in Indianapolis *Indiana Journal*, February 17, 1843.

[160] Indianapolis *Indiana State Sentinel*, February 14, 1843. For the act, see *Laws* (general), 1842-43, pp. 38-39; for the boundaries of the districts, see Appendix C, Map 54.

[161] Riker and Thornbrough (comps.), *Election Returns*, 105-9.

[162] Richard P. McCormick, *The Second American Party System: Party Formation in the Jacksonian Era* (Chapel Hill, N.C., 1966), 270-77. McCormick's synopsis of party development in Indiana is an excellent, brief account of the transition from personal to party politics between 1816 and 1840.

[163] Logan Esarey, "Pioneer Politics in Indiana," *IMH*, 13 (1917), 101. See also Adam A. Leonard, "Personal Politics in Indiana, 1816 to 1840," *ibid.*, 19 (1923), 1-30.

[164] McCormick, *Second American Party System*, 270.

as partisans. As a result, there were no signs of party in the legislature. Sometimes sectional blocs arose. For example, representatives and senators from Knox and surrounding counties in the southwest frequently opposed the Ohio Falls Canal in favor of improving navigation along the lower Wabash River. There also was evidence of sectionalism in the fight over moving to Indianapolis as Harrison and other counties along the Ohio River fought to keep the capital at Corydon. Other than these instances, however, there was no discernible pattern of bloc voting prior to the 1823-1824 session.

The first signs of partisan division appeared when Andrew Jackson ran for president in 1824. At the 1823-1824 session members vaguely designated themselves as pro-Jackson, pro-Adams, or pro-Clay, depending upon which Democratic Republican presidential nominee they preferred. Partisanship appeared on the question of how presidential nominations should be made. The supporters of John Quincy Adams and Henry Clay advocated congressional caucuses as the means to nominate candidates for president and vice-president; Jacksonians argued that caucus nominations deprived the people of their right to elect the highest offices. The vote of pro-Jackson Lieutenant Governor Ratliff Boon proved decisive when the Indiana Senate resolved 9 to 8 that the Indiana congressional delegation should "use all the means in their power . . . to prevent the formation of a Congressional caucus, for the purpose of nominating persons for the offices of President and Vice-President of the United States at the ensuing election."[165] Senate supporters of Adams or Clay protested the resolution as "an unreasonable, unprecedented and futile attempt to control the private and unofficial conduct of our Senators and Representatives."[166] A separate protest disapproved of caucus nominations but added if caucuses were held "let Indiana have her weight there."[167] A resolution condemning caucuses was tabled by a vote of 36 to 8 in the House.[168]

The first crude state political convention ensued in 1824 when Elihu Stout asked the friends of Jackson to hold county meetings in preparation for a state convention at Salem on September 16. Only seventeen delegates representing thirteen of the fifty-one counties attended the statewide gathering.[169] After the presidential election politics returned to the strictly personal level. Then, as 1828 approached, Jacksonians raised the anticaucus issue again. In fact, in 1827 Eliphalet Allen possibly became the first candidate for the General Assembly to run as an unabashed partisan. He won a House seat after denouncing caucus nominations: "They are inconsistent with the true principles of our immaculate Constitution, and ought to be discountenanced by every republican . . . ."[170] While the assembly was in session during January, 1828, a Jackson convention met in Indianapolis with several legislators present. The friends of Adams convened

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[165] Resolution of John H. Thompson in *Senate Journal*, 1823-24, pp. 57-59.

[166] Protest by James Rariden and James Gregory, *ibid.*, 59.

[167] Protest by James Brown Ray and Lewis Johnson, *ibid.*, 65.

[168] *House Journal*, 1823-24, pp. 186-87.

[169] McCormick, *Second American Party System*, 273.

[170] Allen to Terre Haute *Western Register*, July 14, 1827. Allen was elected the following August to the first of two terms as representative from Parke and Vermillion counties.

later the same month, but neither faction attempted to form a permanent organization. A state meeting was not held again until 1832 when partisans of Jackson met in Indianapolis.[171] By 1833 the Jacksonian newspaper in the capital praised the convention system as more open and democratic than the caucus. The paper then helped organize the first state political convention to nominate candidates for governor and lieutenant governor.[172] Although James G. Read and David V. Culley lost in 1834 to incumbents Noah Noble and David Wallace, Culley was so pleased with the convention process that he wanted it expanded: "If it is proper to hold a National convention, it is no less so to hold a State, or County convention. We believe in the whole system . . . ."[173]

Elihu Stout advocated county conventions to nominate candidates for the General Assembly as early as 1827 when he published a call for meetings in each township of Knox County. These meetings were to select delegates who would convene at the courthouse in Vincennes and select two candidates to serve in the 1827-1828 session.[174] By 1832 Stout-endorsed "Committees of Vigilance" met routinely in Knox County to nominate pro-Jackson candidates prior to each state election.[175] Under the leadership of pro-Jackson partisans the convention system spread to other counties. The year 1840, when Indiana would elect a governor as well as vote for a president in the same year for the first time since 1828, marked the turning point for both parties. Whigs and Democrats held county conventions that nominated assembly candidates and selected delegates to state conventions that endorsed gubernatorial and presidential tickets. For example, Whigs met in Henry County although up to 1835-1837 "no such thing as a nominating convention had ever been heard of."[176] The Democratic party in Johnson County also held its first nominating convention. Whig leaders in that county, on the other hand, still "so managed it that themselves or friends generally filled the best offices in the county."[177]

By 1843 the county convention had become the standard means employed by both parties to nominate candidates for the legislature.[178] A circular distributed

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[171] McCormick, *Second American Party System*, 274-75.

[172] Indianapolis *Indiana Democrat*, November 30, December 11, 1833.

[173] Lawrenceburg *Indiana Palladium*, January 4, 1834.

[174] Vincennes *Western Sun*, June 30, 1827.

[175] See accounts of conventions held by Committees of Vigilance for Vincennes, Palmyra, and Washington townships, *ibid.*, February 18, 25, March 3, 1832.

[176] George Hazzard, *Hazzard's History of Henry County, Indiana, 1822-1906* (2 vols., New Castle, Ind., 1906), 2:975.

[177] *Atlas of Johnson County, Indiana* (Chicago, 1881), 81.

[178] The newspapers of the time show that county conventions became pervasive for both parties to nominate assembly candidates. For a sampling, see the following: Republican meeting in Franklin County, Brookville *Indiana American*, June 17, 1836; Huntington County Democratic convention of June 5, 1841, Fort Wayne *Sentinel*, June 19, 1841; Jefferson County Whig convention proceedings, Madison *Republican and Banner*, March 29, 1843; Democratic convention in Franklin County, Brookville *Indiana American*, June 2, 1843; Wayne County Whig convention, Richmond *Palladium*, May 6, 1843; Whigs in Princeton, Gibson County, June 1, 1844, Evansville *Journal*, June 13, 1844; proceedings of Vigo County Whig convention, Terre Haute *Wabash Courier*, May 18, 1844; mass

by the central committee of the Whig party in Vigo County explained how the process worked. Each township in Vigo was entitled to five votes at the convention regardless of the number of delegates from the township who actually attended. The names of all prospective Whig candidates for three seats in the General Assembly were then proposed. After the first ballot, the four names having the least number of votes were struck from the list. The three names having the most votes after the second ballot became the nominees.[179]

As Richard P. McCormick has suggested, the evolution of a national party system between 1824 and 1840 had little effect on Indiana state politics. While Andrew Jackson carried the state in 1824, 1828, and 1832, the opposition faction (consisting mostly of Adams and Clay supporters) retained power on the state level. The anti-Jacksonians also generally had a majority in the legislature. But office seekers of all persuasions shied away from partisan identification as noted by the *Indiana Journal* during the 1830 state election campaign: "With the exception perhaps of but a small portion of the state, we are not advised that any attempt will be made to urge the claims of candidates upon party grounds."[180] The enthusiastic support manifested by both pro-Jackson and anti-Jackson legislators for the Second State Bank in 1833 suggests the degree of separation between state politics and the national stance of parties. The almost unanimous support for the Internal Improvements System of 1836, which came after formal division of the General Assembly into Whigs and Democrats, is additional evidence of nonpartisanship in state matters. Even United States Senate elections, always rancorous after the development of party line votes in the 1840s, were relatively tame through 1838.[181]

The change to full-scale partisanship began with the collapse of the System in 1839. The most immediate result politically was a Democratic majority of 61 to 39 in the House. When the legislature organized for the 1839-1840 session Democrats set out "to displace every officer within their reach." Lewis G. Thompson, a disconsolate Whig, lamented the new partisan atmosphere: "It was

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convention of Democrats in Posey and Vanderburgh counties, Indianapolis *Indiana State Sentinel*, May 30, 1844; Whig convention at Versailles, Madison *Republican and Banner*, May 27, 1846; and Union County Whig convention, Brookville *Indiana American*, July 28, 1848.

[179] See circular of A. Wilkins, George Hussey, and Albert Lange in Terre Haute *Wabash Courier*, July 1, 1843. Joseph S. Jenckes, John Hodges, and James Farrington were the candidates selected. Only Hodges won in the subsequent election. Riker and Thornbrough (comps.), *Election Returns*, 276. Not every county party accepted the convention system immediately. For example, as late as 1842 Allen County Democrats still had not effected an organization because "A few of the more active members of the party in the city of Fort Wayne, usually, but quietly, named the candidates for the Legislature and county offices." See biographical sketch of James W. Borden, Borden file, Legislator, IHSL.

[180] Indianapolis *Indiana Journal*, May 5, 1830.

[181] The Jacksonian newspaper in Indianapolis noted with monotonous regularity the anomaly of winning presidential elections while losing state elections in Indiana. In 1830 it complained because "rotation in office" had not been followed and none of the major officeholders on the state level was a Jackson man. Six years later the newspaper was still unhappy: "Although this State is democratic by a large majority yet the Legislature has always had a majority of opposition members." Indianapolis *Indiana Democrat*, September 18, 1830, August 3, 1836.

nonsense to offer law, testimony, or merit, as a barrier to brute force."[182] That Whigs behaved in a like manner was evidenced when that party gained a 54 to 46 advantage in the House at the 1846-1847 session. Democrat Paris C. Dunning, the new lieutenant governor, prayed in his inaugural address "that the *fell* spirit of party may not be permitted to enter within the walls of this Senate Chamber."[183] But it did no good. Whigs used their majority on joint ballot to elect Samuel Hannah treasurer of state, Douglass Maguire auditor, and Horace P. Biddle president judge of the eighth judicial circuit.[184]

By 1850 the Indiana General Assembly was permanently divided into two fiercely contesting and passionately partisan blocs. This two-party system is the chief political legacy of the pioneer period. While the system has served the people well, it has had some less than desirable side effects. For one, patronage and party advantage became and remained dominant factors in the affairs of state. For another, although parties have provided a convenient mechanism for organizing state government, when the legislature has been divided (with one party controlling one house and the opposition the other), or when the executive and legislative branches were divided, the system could falter. Indeed, when such divisions occur representative government can nearly cease to function, as during the Civil War when Democrats controlled the General Assembly while Republican Oliver P. Morton was governor. The system has worked best when one party enjoys sufficient popular support to control both the legislature and the governorship. Dominance by one party, however, also has its dangers, especially when a party remains in office too long. Prolonged party entrenchment can lead to atrophy, a nearly fatal flaw in citizen-legislators. The symptoms were described in classic fashion in 1845 by a Democratic newspaper unhappy with its own entrenched state central committee: "Our party has long been and still is cursed with a set of treacherous drones living in and about the capital; yet notwithstanding their notorious unfitness, they are somehow or other always selected to occupy those places of trust which ought to be filled by honest, energetic men."[185]

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[182] Thompson to W. L. Thompson, December 17, 1839, in Lewis G. Thompson Papers, Indiana Division, ISL.

[183] *Senate Journal*, 1846-47, p. 34. Emphasis in original.

[184] *Ibid.*, 68-70.

[185] Fort Wayne *Sentinel*, October 4, 1845.

Chapter 3
The Legislative Process

State legislatures are bodies of representatives chosen by popular vote to make laws. They are elected and convene at regular intervals mandated either by state constitutions or by law. They are guided generally by procedural rules designed to ensure an atmosphere conducive to the making of laws.[1] The lawmaking process followed by such bodies customarily includes division into two separate houses; the organization of those houses to facilitate the preparation and passage of bills; and the implementation of other legislative functions associated with representative government. The mechanics of the process were derived from state and federal mandates regarding the legislative branch of government; from formal rules of conduct adopted by the bodies; from the role of leaders such as speakers of the House and presidents of the Senate; from committees; and from custom. Before a person could participate in the legislative process, he had to be elected to membership. Before he could be elected, he had to be nominated and agree to run. In short, before one became a lawmaker, one first had to be a candidate.

Running for Office

In early state elections most candidates were self-nominated. Usually the first step was a simple, straightforward statement in the newspapers by the candidate or his friends. The announcement of Walter Wilson, who won a House seat in 1816, was typical: "Should I have the honor of being your representative, the promotion of the local interests of [Knox] county in particular, and of the state generally, shall be my constant aim, without regard to party, or personal interests."[2] Although simplicity remained the norm for several years, announcements could be tailored to individual tastes. For example, William Carpenter announced in Jefferson County in 1817 with these words: "Without *any pressing solicitations* from my friends, or dread of my foes, but possessing in common with my countrymen a right of asking for their suffrages—I present myself as a Candidate for the ensuing session of the Legislature." Carpenter issued this statement on July 20, one day after his opponent, Nathaniel Hunt, gave first notice of his candidacy. Hunt, who won the election, offered an excuse for his late announcement: "Owing to the agitation of the public mind—occasioned by the unprecedented course heretofore pursued in electioneering—which to every judicious thinking man must be disgusting, is my apology . . . for not suffering my name to appear at an earlier period."[3]

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[1] For the origin and development of American legislatures, see Robert Luce, *Legislative Principles: The History and Theory of Lawmaking by Representative Government* (Boston and New York, 1930).

[2] Vincennes *Western Sun*, July 20, 1816. The columns of this newspaper abound with similar announcements during July of 1816 for the first state election.

[3] Letter of Nathaniel Hunt, dated July 19, and letter of William Carpenter, dated July 20, in Madison *Indiana Republican*, July 26, 1817. Emphasis in original.

Inveterate office seekers sometimes embellished announcements with explanations of why they ran. Thus, John Tipton admitted in 1820 that he was a candidate for the House because he was not eligible to run a third time for sheriff of Harrison County. "Should I again be honored with your confidence," Tipton said, "I will serve with fidelity, and if not elected, be the last to murmur."[4] General Washington Johnston, a perennial candidate for various offices between 1817 and 1831, was usually brief and humble in his announcements. For example, when standing for the House in 1826 Johnston said "As to my qualifications to serve you, delicacy forbids my saying any thing—your long acquaintance with me, will enable you to judge." He then endorsed improvement of navigation on the Wabash River and a canal to connect the river with Lake Erie. "Upon other subjects, either general or local, I feel free in pledging myself to observe your instructions."[5] When George Craig announced for the Senate from Switzerland County in 1819, he included one of the first candidate platforms in his notice. Craig promised if elected to sponsor legislation for roads, for opening the Jeffersonville Canal, for encouraging the building of mills, for bounties on wolf scalps, for pounds in each county for stray horses, and for letting road work to the lowest bidder.[6] Although Craig lost the election, he won the seat in 1822.

Candidates who went beyond simplicity sometimes encountered unforeseen difficulties. The announcement by William Ludlow, who lost for the House from Vigo County in 1829, occupied six columns of solid minion type and spilled over for a paragraph or two to a second page. Whether Ludlow lost because of verbosity or because of an overly exalted notion of how to be a good legislator was unclear. Certainly few, if any, lawmakers from any era could fulfill Ludlow's two prerequisites for service in the General Assembly:

> The first essential and requisite knowledge with a good legislature, is, to know all the bodily and mental wants of mankind, as sensitive, social, intelligent beings. The second essential requisite is a knowledge of the qualities and properties as existing in the various substances and beings the earth affords, in all their adaptions, as means for the supply of human wants; including the exercise of our faculties in the useful arts, for mutual and general good.[7]

In 1820 Richard Hopkins announced for the Senate with a long statement that contained grammatical errors. His concluding sentence stated that "the citizens of this great nation . . . whose anthems is [*sic*] liberty and independence, is [*sic*] almost tottering on the brink of ruin." A week later an "Elector" pointed out

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[4] Corydon *Indiana Gazette*, May 17, 1820.

[5] Vincennes *Western Sun*, May 20, 1826. Johnston won the election. For other examples of his style as he ran year after year for local or state office at almost every opportunity, see announcement and the fulsome letter of thanks after he won again for the House in 1829, *ibid.*, June 6, August 8, 1829. A possible explanation of Johnston's compulsive office seeking was offered in 1830 when he ran for clerk of court. A supporter wrote that Johnston's election "would be a judicious choice, relieve his family, and be highly beneficial to his creditors. His long residence, and qualifications entitle him to this last mark of public confidence." Letter signed "Veritas," *ibid.*, July 3, 1830.

[6] Madison *Indiana Republican*, July 3, 1819, letter dated June 29.

[7] Terre Haute *Western Register*, June 11, 1829.

to Hopkins that "your language is not [the] English language by which our laws are to be promulgated . . . ."[8] Hopkins lost the election.

As announcements became more elaborate, spurious ones from suppositious candidates occasionally appeared. One in 1826 promised that if the man won he would have the General Assembly establish a gold mine on the side of a hill to be worked by the voters free of charge.[9] Another satirist leveled with voters in 1832 by stating "my first object in being elected is to get money. . . . I am first for myself; second for Old Hickory, . . . I hate temperance societies. If elected, I promise to change the seasons, so as to make winter more mild, and the seasons more early, the corn to grow more sound, and thereby render so much replanting unnecessary."[10]

Methods other than self-nomination were employed sometimes, even before the formation of organized parties. In the early 1820s militia companies in Harrison County put up candidates who were expected to look after militia interests.[11] John Ketcham claimed a House seat in the mid-1820s because "the people knew I had killed an Indian, and had decided three lawsuits in about forty minutes—they said I must go to the Legislature. I agreed to it."[12] In 1825 a grand jury in Vigo County recommended that a meeting be held at the courthouse in May to select the men who "should be chosen to represent us" at the August election.[13] Dearborn County developed a variation: township meetings that directly nominated candidates without any provision for county-wide agreement. Thus candidates might be nominated by a meeting of interested citizens at a Catholic church in Kelso Township in 1828 or by a similar group meeting in the room of John Watts and Horace Bassett in 1834.[14] Milton Gregg served one term in the House from Dearborn County at the 1835-1836 session. After his service, he moved to Madison and in 1850 Gregg showed the advantage of being in the right place at the right time. A group gathered in the upper room of the Jefferson County courthouse to select

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[8] Madison *Indiana Republican*, July 27, August 3, 1820.

[9] Announcement written by John Finley, Finley file, English Legislator Collection, Indiana Historical Society Library, Indianapolis.

[10] Robert Levell to independent voters of Rush County, May 24, 1832, in Madison *Indiana Republican*, June 28, 1832.

[11] Corydon *Indiana Gazette*, June 22, 1820. Although formal nomination by militia companies seems to have been limited to Harrison County, endorsement by the militia was a key element in the success of many candidates. As one example, George L. Kinnard was elected captain of militia shortly after moving to Indianapolis. "This paved the way to his election to the Legislature" in 1827. See "Lecture on the Early History of Indianapolis by Nathaniel Bolton," in Kinnard file, Legislator, IHSL.

[12] Thomas M. Hopkins, *Reminiscences of Col. John Ketcham of Monroe County, Indiana* (Bloomington, Ind., 1866), 19.

[13] Terre Haute *Western Register*, May 7, 1825. An accompanying editorial applauded such a meeting and hoped "to see freemen meet, consult, and unite in the selection . . . of such men as are best qualified to promote and maintain the general welfare, without regard to sectional party, or personal considerations."

[14] Lawrenceburg *Indiana Palladium*, June 28, 1828, July 26, 1834. When different meetings nominated different men, the dispute was carried into the general election. Thus, Ezra Ferris was nominated for the Senate by Kelso Township in 1828, but he was defeated by John Watts, the nominee of four other townships. *Ibid.*, August 9, 1828.

candidates for the Constitutional Convention and "Mr. Gregg happened to pass along the street opposite in their view, when some one who had not thought of him before, proposed him as a candidate for Delegate to the Convention."[15] Thus, although his nomination was "accidental," Gregg won the election and helped formulate the Constitution of 1851.

After political parties made nominations their exclusive preserve in the 1840s, the partisan press replaced self-promotion with party propaganda. For example, when the state Democratic organ reprinted a review of Senate nominations in 1843 it found "a gentleman and a scholar, a sterling Democrat and an honest man" running in Montgomery County; "one of the most promising young men in our State, an honor to his profession, and an ornament to his party" running in La Porte, Lake, and Porter; a man with a "soul as capacious as his district" in St. Joseph; and a man in Marion County whose "financial knowledge is profound and perfect, which should be a qualification in these iron times."[16]

Once nominated, a candidate could withdraw. In the earliest elections this was called "to decline holding a poll" and those who declined usually did so after testing the waters and seeing little chance of victory.[17] Candidates also withdrew for personal reasons. Hugh McGary announced in 1822 that he would not continue his campaign for state representative because of "The late change in my domestic arrangements . . . ." Another item in the same newspaper explained the change: "DIED—Mary McGary, wife of Hugh, after a short but painful illness."[18] In the mid-1830s an incumbent Whig withdrew because he found "others more anxious for the place than I am." In the same election a Senate candidate claimed he could not stomach the intrigue of campaigning: "In such a field as this I will not fight . . . believing all honest men ought to have too much respect for themselves to engage in such a contest . . . ."[19] George Pattison was a good example of a reluctant candidate who refused to run. Nominated for the House by Marion County Democrats while he was out of town in 1837, Pattison withdrew from the race because "an aspirant for office is a character I have always detested." Pattison added that while most legislators were competent and dedicated citizens, at every session there were also "a host of lazy, idle upstarts . . . who from sad experience find themselves good for nothing else than spouting nonsense . . . ."[20]

After nomination, candidates who ran usually circulated handbills (sometimes called broadsides). Printed on only one side of a sheet of paper, they were widely distributed to publicize a man's views. Sometimes handbills attacked an opponent like one headed "MALIGNITY EXPOSED. TO THE PUBLIC" prepared by

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[15] Gregg file, Legislator, IHSL.

[16] Lafayette *Advertiser*, reprinted in Indianapolis *Indiana State Sentinel*, July 4, 1843.

[17] Typical withdrawal notices which used the phrase included those by George R. C. Sullivan as a candidate for Congress in 1816 and by Joseph Lane as a candidate for the Indiana House in 1823. Vincennes *Western Sun*, August 17, 1816; Evansville *Gazette*, June 11, 1823.

[18] Evansville *Gazette*, July 13, 1822.

[19] Withdrawal of Lewis Jones and James McDonald, Vincennes *Saturday Gazette*, July 2, 16, 1836.

[20] Indianapolis *Indiana Democrat*, May 31, 1837.

Senate candidate John Ewing of Vincennes in 1816. "HENRY DUBOIS has left me no alternation other than to shoot him, as I might a dog, or to adopt this mode to expose his baseness," Ewing said. More typically, handbills simply spelled out the candidate's virtues. Many indicated that if elected the man would accept instructions from his constituents during the session. Thus Elisha Harrison, "induced to offer myself as a candidate to represent you in the ensuing General Assembly," stated in 1819 that "Holding the right of the people to instruct their Representatives, is one of their invaluable priveleges [*sic*] guaranteed to them, I shall (if elected) at all times be happy of your instruction in all legislative business in which you may be interested."[21] An Ohioan mockingly praised broadsides as advantageous because in Ohio people had to inform themselves about men and issues "but in Indiana, they have no trouble of such an investigation [as] each candidate there writes his own biography, speaks in modest terms of his own principles and patriotism; and publishes the whole in a convenient handbill or newspaper advertisement."[22] A purported visitor from England had a contrasting view of Indiana handbills, describing them as "pestilent little pieces of composition, signed with a candidate's name . . . in which [he] praises himself, and abuses his opponents, in a style truly combustible."[23] Whether convenient handbills or pestilent compositions, broadsides were a primary means for candidates to make themselves known.

After the announcements were made and the broadsides circulated, electioneering began in earnest. In a state where all white male citizens twenty-one years of age or older could vote in the county of their residence, provided that they had lived in the state for at least one year prior to the election, anyone seriously wishing to be elected had to canvass his district and exhibit the common touch. This could mean a candidate "walked over the whole of Switzerland County" as Samuel Merrill did in 1819.[24] Electioneering also meant speaking from "the stump," sometimes by appointment, sometimes on a moment's notice, and sometimes for hours on end.[25] "It is a matter of fact that the Indiana pioneers loved a spread-eagle speech," and the candidate most proficient in the art was likely to win. George H. Proffit served five terms in the Indiana House and two terms in the United States House because, it was claimed, his "eloquence . . . reached a degree of extravagance, bombast, and turgidity, never before known, except

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[21] Broadside of John Ewing, 1816, and broadside "To the Free and Independent Electors of the 10th Senatorial District . . ." from Elisha Harrison, July 7, 1819, in Broadside Collection, Indiana Division, Indiana State Library, Indianapolis.

[22] Letter from Lebanon, Ohio, in Indianapolis *Indiana Journal*, July 26, 1825.

[23] "English Letters from America—No. IV," Evansville *Gazette*, June 11, 1823. Four letters supposedly written by an anonymous Englishman to friends in England were published May 21, 28, June 4, 11, 1823. They satirized life and politics in Indiana.

[24] Sketch of Merrill by his daughter, Merrill file, Legislator, IHSL.

[25] For an example of fixed appointments at which a candidate would be present to discuss the issues, see Wilson Lagow's schedule in Vincennes *Western Sun*, July 3, 1830. Lagow noted that at these appearances he would be prepared "to refute the calumnies heaped upon me by my opponent, and shew to the people that I have been vilely traduced and grossly slandered."

perhaps, in the ritualistic formalities of the feudal ages."[26] In 1844 John L. Bruce proved a successful stump speech need not be long. Bruce was accused of Sabbath-breaking because he served free whiskey at a rally. Bruce did not deny the charge. Instead he ignored it and delivered possibly the briefest stump speech on record: "Fellow citizens, my politics are the same as Henry Clay's. I thank you for your attention, and shall be obliged for your votes."[27]

Above all, electioneering in pioneer Indiana meant courting the farmers. Amaziah Morgan, an expert on winning elections after serving twelve years in the Senate during the 1820s and 1830s, explained how to get the farm vote:

> Now, when I go down to Rushville . . . the first man I meet is a farmer, barefooted, and carrying a plow to the shop to be mended, or sharpened. I check my horse, call the man by his first name, ask him if all are well and how much the baby has grown, how much corn he has planted. In fact I ask him about just such things as interest him, and altho some of the merchants or lawyers may pass along, I dont turn from No. 1 to talk to them. They dont think any the less of me for my attention to this poor hard working man, and when the election comes on I get one half or more of the rich or well to do and all of the others.[28]

Morgan's technique worked throughout the pioneer period and candidates who ignored its wisdom generally remained just that—candidates.

In addition to personal canvassing and speaking on the stump, candidates were expected to "treat." Although the Constitution disqualified anyone "convicted of having given, or offered, any bribe, treat, or reward to procure his election," treating was so open and widespread that the threat held no terror.[29] "A sack of apples on election day" served for candidates like Jacob Cook (House, 1834-1835) who were of modest means and inclined towards temperance. Senator Joseph Eggleston was a definite exception when he stated "If any man's vote can be bought with an apple I don't want it." Eggleston refused any kind of treat and was elected to the legislature three times anyway from Switzerland County.[30]

Whiskey, by far the favorite treat, was an integral part of electioneering despite the persistence of temperance advocates and periodic complaints in the press. A letter from "A Republican" in 1821 was typical. Voters "should approach the ballot-boxes with the singleness of heart and gravity of temper, which encircle the communion table," and avoid "the advances of *villainous hospitality* . . . ." The writer concluded that no voter should "*sell* his vote, to a *knave* for *grog*

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[26] George R. Wilson, "George H. Proffit, His Day and Generation," *Indiana Magazine of History*, 18 (1922), 3.

[27] Bruce file, Legislator, IHSL. A friend described Bruce as "a man of good sense, but no speaker." He served only one term. Thomas M. Curry ran Bruce a close second for brevity. In the mid-1830s Curry traveled his district in Montgomery County with his opponent who spoke first. Curry then rose and said "My competitor has made many promises, I have only one to make, that is, I will promise to have my per diem—if elected." Curry won the election. Curry file, *ibid.*

[28] Morgan sketch by his nephew, in Morgan file, *ibid.*

[29] Charles Kettleborough, *Constitution Making in Indiana* (3 vols., Indianapolis, 1916, 1930), 1:116.

[30] Cook and Eggleston files, Legislator, IHSL.

. . . ."[31] Nonetheless, on election day, 1821, in Jefferson County, "two or three barrels of whiskey, with tincups hung on them" enticed voters at the polls.[32] By 1832 the custom had reached Boone County where a friend helped Austin Davenport win a House seat by offering "gin a treat" at the polls in Jamestown precinct. As a result, Davenport "got about all the votes at the precinct."[33] Sometimes the whiskey was poured before election day, as in 1827 when candidate Lewis Roberts helped his cause by providing a bucket of whiskey at a log rolling.[34] In at least one instance, the whiskey did not flow until after the election. This was in 1833 when William P. Kiser celebrated his victory by inviting "the whole vote of Brown Co. to his house in Columbus where they were entertained for two days at his personal expense and rest assured they came in full force."[35] The fate of John Hendricks showed that it was risky not to treat with whiskey in Shelby County. Although Hendricks was "an intelligent, religious and temperate man, and everybody acknowledged his qualifications for office," when he declared against treating in 1836 Hendricks was denounced as a temperance man and defeated by "a large vote."[36]

Men won or lost for other unlikely reasons. Joshua H. Lucas served one term in the House (1822-1823, Monroe County) "mainly due to his skill in telling stories . . . of a *quasi* immoral character, which captivated the rabble."[37] James S. Freeman reportedly sang his way into the House during the hard cider campaign of 1840 even though he was only "a fair speaker."[38] And a Whig newspaper chided Democrat Henry Hoover that he lost his House seat in 1842 because voters thought Hoover was putting on airs by canvassing Wayne County in a buggy instead of an ox cart. "There's no mistake Henry but that the buggy lost you the three dollars per day and the roast beef!"[39]

While most contests were fought on issues like the State Bank, roads, and improved waterways, a campaign could turn on religion, age, temperance, even leisure activities. Thomas Crawford nearly lost in 1820 after he was accused of seeking election to propagate a sectarian religious view. Crawford defended himself by noting "I glory in the constitution, that provides no religious opinions shall be the test of office in our state."[40] Senator Levi Jessup blamed "inherited piety" for his loss in Hendricks County in 1833. Jessup's opponents charged his mother had reared him as a Quaker although they admitted the senator no longer professed

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[31] Vincennes *Western Sun*, June 16, 1821. Emphasis in original.

[32] Brooke Bennett file, Legislator, IHSL.

[33] Samuel Harden (comp.), *Early Life and Times in Boone County, Indiana* (Indianapolis, 1887), 104.

[34] Roberts file, Legislator, IHSL.

[35] Kiser file, *ibid.* In 1833 residents of what became Brown County voted in Bartholomew County, which Kiser represented.

[36] Hendricks file, *ibid.*

[37] Charles Blanchard (ed.), *Counties of Morgan, Monroe and Brown, Indiana* (Chicago, 1884), 456. Emphasis in original.

[38] Freeman file, Legislator, IHSL.

[39] Richmond *Palladium*, August 6, 1842.

[40] Madison *Indiana Republican*, June 22, 1820.

that creed.[41] John A. Graham, a Democratic candidate for the House from Peru in 1849, was attacked because he was a Roman Catholic. Graham's supporters published a petition that affirmed Graham "is a *moral, upright* and *honest citizen*, and a man of *liberal* religious principles, [who] enjoys his own religious views, and permits all others to do the same." The signers were pained by the attempt to deny a man votes "because he holds to doctrines in religion differing from our own." Despite this plea, Graham lost the election by twenty-three votes, 1,533 to 1,510.[42] Sometimes religion was combined with tests on issues like abolitionism and temperance. For example, voters in Decatur County in 1842 propounded six questions to Whig David Montague. He answered "No" to the first three: 1) Are you an infidel in religious matters? 2) Are you an abolitionist? 3) Are you in favor of taxing distilleries so as to break them down? Montague won the election.[43] In 1844 it was said that John Benefiel looked too young to serve in the House. Benefiel replied that "if I live I'll get older—all in good time," but to no avail. He lost the election.[44]

Temperance was a thorny issue no matter what stand a man took. Nathaniel Bolton, a newspaperman long associated with the Democratic state organ in Indianapolis, lost for the House in 1843. Bolton said that he was personally opposed to intemperance but would oppose legislation "believing it to be an interference with personal liberty, and it would not accomplish any good."[45] A Methodist minister in Franklin County took perhaps the most extreme stance against liquor during July, 1850. Thomas A. Goodwin replied to a critic of his temperance views and said "killing men with rum is the worst kind of murder . . . ." Goodwin proposed that the legislature impose fines to stop the liquor traffic. If fines did not do the job, then Goodwin advocated prison for violators. If that failed after a trial of three to six years, then Goodwin was for hanging offenders.[46] While Goodwin never ran for the General Assembly, his letter—published during an election campaign—illustrated the emotionalism legislative candidates could encounter on the temperance question. In 1843 Daniel R. Bearss got into trouble because he enjoyed bowling. Rumors circulated that Bearss was "absent playing nine pins" while the House was in session during his previous service. "I was not absent an hour," Bearss wrote, "unless watching the progress of some of my measures in the Senate."[47]

Sometimes elections were marked by violence. One of the most serious incidents occurred in Bartholomew County and resulted in death for a successful House

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[41] Jessup file, Legislator, IHSL.

[42] Petition of Benjamin Henton and others, 1849, in Graham Papers, Indiana Division, ISL, emphasis in original. See also *History of Miami County, Indiana* (Chicago, 1887), 428-29; Dorothy Riker and Gayle Thornbrough (comps.), *Indiana Election Returns, 1816-1851* (Indianapolis, 1960), 339.

[43] Lewis A. Harding (ed.), *History of Decatur County, Indiana* (Indianapolis, 1915), 524, 525.

[44] Vincennes *Western Sun*, July 13, 1844.

[45] Indianapolis *Indiana State Sentinel*, August 1, 1843.

[46] Brookville *Indiana American*, July 19, 1850.

[47] Bearss to Mr. Reynolds [William Rannells], June 29, 1843, Letterbook, 1839-44, in Bearss Papers, Indiana Division, ISL.

candidate. Newton C. Jones ran in 1828 as an Adams man. During the campaign he brawled at a tavern with the Jackson candidate for clerk of court, although the fight was apparently motivated by personal differences instead of politics. At any rate, the antagonists were "both powerful men of faultless courage and skilled in pugilism. Soon the floor was stained with blood; the walls and even the ceiling were blotched with it." The fight lasted about forty-five minutes, leaving both combatants prostrate. Both men won their elections, but Newton Jones died before the legislature assembled. "It was thought by many that his death was occasioned by the dreadful pounding he had suffered."[48] In Logansport in 1836 there were "pretty warm times about the election which is to take place next monday [*sic*]":

> the candidates are attacking each other, both before and behind their faces; and also there [*sic*] friends and enemies, and telling lies about each other. One of these insignificant talkers had a polite and an appropriate introduction to a hickory stick . . . for telling falsehoods about General [Walter] Wilson, candidate for Senator . . . the poor fellow was so badly scared that he received a pretty good brushing before he thought about running, and had to make his way through mud Knee deep.[49]

An election in Hamilton County in 1838 provoked a pitched battle between supporters of the two candidates. When the early voting indicated that Whig Ira Kingsberry might win, friends of Democrat Francis B. Cogswell opened a keg of whiskey in front of Cogswell's home in Noblesville. They offered unlimited drinks to anyone who voted for their man. Before dark that evening it was announced that Cogswell had won. Kingsberry's friends "armed themselves with stones and brickbats" from the recently completed courthouse and descended upon Cogswell's supporters. A pitched battle ensued and as "the fight came to an end . . . the night was far spent before the streets were clear of the rioters."[50] In 1848 candidate John Benefiel was injured during a riot at the polls in Busseron Township, Knox County. During the melee Benefiel's right arm was broken by a man who struck him with a tomahawk.[51]

The Process of Voting and Contested Elections

Announcements, broadsides, stump speeches, and fist fights were all means to one end: winning a majority at the polls on the first Monday in August. The conduct of elections, prescribed by an act passed at the first session, remained basically unchanged throughout the pioneer period. By the terms of the act county commissioners appointed an inspector of elections for each township. Every inspector appointed two additional election judges, and together the three of them selected two clerks. The inspector was to open the polls between 9 and 11 a.m. and he could close the voting as early as 4 p.m. if all had voted. Otherwise, he

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[48] *History of Bartholomew County, Indiana* (Chicago, 1888), 398.

[49] Charles Lasselle to James Lasselle, July 26, 1836, Lasselle Collection, Indiana Division, ISL. Wilson lost the election.

[50] Augustus Finch Shirts, *A History of the Formation, Settlement and Development of Hamilton County, Indiana, From the Year 1818 to the Close of the Civil War* (n.p., 1901), 275-76.

[51] Vincennes *Gazette*, August 10, 1848.

closed the voting at 6 p.m. In the event an inspector did not show up on time, the assembled voters were empowered to elect a temporary inspector. Also, voters were not required to vote in their own township; they could vote anywhere in the county and many did so at the county seat, which became a general gathering place on election day.[52]

Ballots were provided by the individual candidates in the earliest elections. After the formation of political parties, they were provided by the parties.[53] As each elector brought up his ballot, the inspector would call out his name while the clerks kept separate lists of who voted. If no objections were raised to an elector, his ballot was put in the box. Sometimes the inspector and judges went to extraordinary lengths to see that the right people voted. For example, in 1845 Democrats charged that Whig judges in Cambridge City (Wayne County), "not being altogether satisfied with the way in which people seemed to be voting," left a clerk in charge at the polls and took the ballot box around the township to collect the votes of their friends. Whigs did not deny the charge, explaining the judges, "with the consent of . . . the Inspector," visited several legal voters who wished to vote but were unable to attend the polls.[54]

When the polls closed the inspector and one judge read out the names on each ballot while the two clerks separately tallied the results. The judges then wrote out a certificate listing the number of votes for each candidate and delivered this, along with one of the poll lists and one tally sheet, to the clerk of the circuit court. After checking the certificates from all the townships, the clerk declared the winners if the county made up an entire district. In multicounty districts, the clerk sent his county's returns to the sheriff, who met with other sheriffs to certify the district winner.

The system worked reasonably well and the only major complaints involved the ability of the people to vote anywhere in their county. As early as 1822 an editor in Corydon suggested voters should be restricted to their own townships in order to eliminate the uproar and corruption of election day. In 1827 a petition to the same effect was presented to the legislature from the citizens of Union County, but it got nowhere. As late as 1841, a bill to restrict voters to their own townships failed because, in the words of Senator Charles H. Test, "there is no evidence that such changes are desired by the people—or demanded by the public interest." According to Test, proponents of the change argued that it would limit

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[52] *Laws*, 1816-17, pp. 85-92. For a comprehensive overview of elections during the era, see Dorothy Riker, "Pioneer Elections in Indiana," *Yearbook of the Society of Indiana Pioneers* (1946), 5-13. Unless otherwise noted, the account of elections is drawn from this article.

[53] There were frequent charges in the party press of spurious ballots being printed to deceive voters. Typical was an account in 1844 accusing Whigs in Tippecanoe County of printing fake ballots headed "Democratic Ticket" but listing only Whigs. Indianapolis *Indiana State Sentinel*, August 22, 1844.

[54] *Ibid.*, August 13, 23, 1845. The Cambridge City *Reveille* admitted that the judges were wrong but stated no fraud was intended or accomplished. The judges did not carry the ballot box around the township but went to the homes of some voters to collect their votes. In the absence of the judges, some voters voted with the inspector at the polls, refusing to wait until the judges returned. This was illegal and, of course, the explanation did not satisfy the *Indiana State Sentinel*.

crowds, forestall fights and riots, and prevent fraud in voting. Test said riots did not occur and fraud could occur under one system as under another.[55] Efforts to pass a bill to alleviate overcrowding at the polls by allowing two voting precincts in a township failed on at least two occasions in the late 1820s. But in 1834 a law was enacted empowering county boards to open an additional polling place at the county seat or in any township where more than 800 votes were usually cast.[56]

The question of whether the people's votes should be cast by ballot or *viva voce* (voice vote) was warmly contested in the General Assembly. Indiana had used the *vive voce* method during the territorial period and the question of how voting should be done was debated at the Constitutional Convention in 1816. Ballot voting won by only a 22 to 21 margin, with a provision that the legislature could switch to a *vive voce* system after four years.[57] As a result the General Assembly called for a referendum on the matter in 1821. The results were fragmentary and showed an inconclusive division of sentiment.[58] The 1821-1822 session moved to settle the matter, and the House voted 23 to 19 to change to *viva voce* voting. Fifteen representatives who voted against the measure filed a protest that contained several substantive points. They said first that the bill was contrary to the people's verdict in the 1821 referendum. More importantly, according to the protesters, oral voting was "calculated to restrain the freedom of elections by subjecting debtors and tenants to the influence of those to whom they are dependent." Also, voice voting would excite additional controversy at the polls.[59] Defenders of the printed ballot prevailed in the Senate by a vote of 8 to 7 and the House bill was scuttled.[60] Barring an amendment to the Constitution, the decision ended any possibility of oral voting in Indiana.[61]

Sometimes the election process did not end with the reporting of results. On three occasions during the mid-1820s House members appeared at the beginning of a session without a proper certificate of election. A case from Knox County in 1825 was typical. The House elections committee reported "no doubt but that Benjamin V. Beckes was duly elected and obtained his certificate, which by accident

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[55] Corydon *Indiana Gazette*, August 8, 1822; *Senate Journal*, 1827-28, p. 58, for Union County petition; speech by Test dated January 21, 1841, in Richmond *Palladium*, January 30, 1841.

[56] For the failed attempts to increase the number of polling places, *Senate Journal*, 1828-29, p. 58, *House Journal*, 1828-29, pp. 63, 64, *ibid.*, 1829-30, p. 189; for the 1834 act, *House Journal*, 1833-34, p. 256; *Laws*, 1834, p. 78.

[57] Oral voting was abolished in 1811 but restored in 1814. Louis B. Ewbank and Dorothy L. Riker (eds.), *The Laws of Indiana Territory, 1809-1816* (Indianapolis, 1934), 230-31, 489-90, 620. See also *Journal of the Convention of the Indiana Territory* . . . (Louisville, Ky., 1816), reprinted in *IMH*, 61 (1965), 109.

[58] *Laws*, 1820-21, pp. 136-37.

[59] *House Journal*, 1821-22, pp. 196, 224-26, 291-92, 298-99, 311-14, 325-27.

[60] *Senate Journal*, 1821-22, pp. 101, 107, 222-23, 232. A good summary of the ballot versus *viva voce* controversy is in Kettleborough, *Constitution Making in Indiana*, 1:xxvii-xxxiii.

[61] There were at least two subsequent efforts to allow the public to vote on *viva voce* voting, but both died in the House. *House Journal*, 1825-26, pp. 307, 308; *ibid.*, 1832-33, pp. 467-68.

he left at Vincennes." Beckes was seated.[62] Contested elections were more serious. One Senate and eight House seats were contested before formal division into political parties in 1834. Only once, in the case of Eli Dixson, Sr., against Hugh Barnes in 1822, were the grounds for complaint specified. The certificate of election declared Barnes elected from the district of Greene, Owen, Morgan, and "that part of Putnam County which was taken from Owen." But the figures on the certificate included all of Putnam County. The House elections committee disallowed the sheriff's certificate and recommended the seating of Dixson.[63] The remaining contests had varied results. One senator and three representatives were confirmed in their seats either after committees decided the contesters' charges were not supported by sufficient evidence or, in one case, the House refused to accept a majority report upholding the contester.[64] On two occasions the challenger was seated. On the two remaining occasions neither the elections committees nor the House could decide; both times the seat was declared vacant and a new election called.[65]

After the rise of political parties all contested elections but one involved partisan differences and party line votes. The exception was a unique case at the 1845-1846 session involving a seat from Dearborn and Ohio counties. The former county was entitled to three representatives by the apportionment of 1841. Then in 1843 Ohio County was formed from part of Dearborn with the provision that both counties should share three representatives, one of whom must reside in Ohio County. Four persons claimed the three seats when the House convened, and the clerk refused to decide between the claims of two of them, William Lanius and George W. Lane. Lanius was seated but Lane was permitted to remain within the bar of the House until a final decision was rendered. Lanius prevailed when the House selected him on the grounds that he lived in Ohio County while Lane resided in Dearborn County.[66]

The swearing in of members, the determination of any contests, and the final elections committee report that each member was entitled to his seat, concluded the election process which began, in the broadest sense, with the suffrage and apportionment laws and continued through the stages of nomination, campaigning, and voting. Would-be candidates for the Indiana General Assembly received sage advice in 1837 from one who signed himself as "An Old One." He said the man who wanted abuse without demerit and praise beyond his deserts should be a candidate. He asked "Do you wish to read your own private history, with emendations, additions, subtractions, multiplications, alterations and amplifications, with

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[62] *Ibid.*, 1825-26, p. 28. A case from Jefferson County in 1825 and one from Posey County in 1826 were settled in the same way. *Ibid.*, 1825, p. 38; *ibid.*, 1826-27, p. 35.

[63] *Ibid.*, 1822-23, pp. 8, 29-30.

[64] *Senate Journal*, 1816-17, pp. 12, 14; *House Journal*, 1826-27, pp. 19, 26, 27; *ibid.*, 1827-28, pp. 9-10, 37, 38, 40; *ibid.*, 1833-34, pp. 9, 52.

[65] For the unseating of members, *House Journal*, 1818-19, pp. 9, 24-27, *ibid.*, 1829-30, pp. 9, 55. For the vacating of seats, *ibid.*, 1816-17, pp. 5, 7-8, *ibid.*, 1820-21, pp. 22, 29, 30.

[66] *Ibid.*, 1845-46, pp. 5, 6, 39, 40-41, 54, 55, 56, 62, 64, 65; Evansville *Journal*, December 11, 1845.

a copious preface, introduction, appendix, table of contents, index and notes?" The candidate must expect censure for good points, and praise for virtues his family never suspected. The candidate must think with the majority, and not for himself; he must speak without saying anything; and he must agree with the majority exactly, but almost just as exactly with the minority. "An Old One" concluded with the wisdom of one who had been there: if you want to know who your friends are and who just wanted something from your friendship, be a candidate.[67]

Speakers of the House

Once they were seated, the next step in the life of members of the General Assembly as lawmakers was participation in the legislative process. The first order of business for each house was the election of officers. These included the principal clerk of the House, the principal secretary of the Senate, along with assistant clerks or secretaries and two doorkeepers. These posts were filled by majority vote in each house from outside its membership. Since the Constitution designated the lieutenant governor as the president of the Senate, the upper house did not elect its presiding officer except on those rare occasions when the lieutenant governor was ill or the office was vacant. On such occasions the Senate elected a president *pro tempore* from its membership.

The presiding officer of the House was the most important officer elected. The man chosen for speaker controlled committee appointments and designated committee chairmen; he determined who would be recognized; he determined what bills would be considered, and in what order; and, when necessary, he applied parliamentary law or interpreted the rules. He was chosen by majority vote of the House from its membership and was the first officer elected. Through the 1822-1823 session, candidates for speaker were usually self-nominated and there were no heated contests or signs of partisanship in elections. During those years only Williamson Dunn of Jefferson County served two terms in the post. Even after the formation of political parties, most elections for speaker were not warmly contested. Two of the closest contests involved pro-Adams Isaac Howk. In 1828 Howk defeated pro-Jackson Samuel Judah on the fifth ballot. When the result was announced some persons in the gallery "commenced a violent clapping and stamping," behavior which an editor in Judah's hometown of Vincennes found "disgraceful." The following year Howk lost to pro-Jackson Ross Smiley 31 to 28 on the fourth ballot.[68] Other than these two elections, after parties were formed the speakership was settled by party caucus and the election generally required only one ballot on a party line basis.

Between 1823 and 1833 anti-Jackson men were elected speaker seven times and pro-Jackson men were elected speaker three times. The anti-Jacksonians included Harbin H. Moore, the only man to serve three sessions as speaker during

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[67] "Be A Candidate," Indianapolis *Indiana Democrat*, May 17, 1837.

[68] *House Journal*, 1828-29, pp. 5-6; *ibid.*, 1829-30, p. 5; Vincennes *Western Sun*, December 20, 1828, December 29, 1829.

the pioneer period, and Isaac Howk, who served two sessions. No pro-Jacksonian served more than once as speaker. Whigs were elected at each session between 1834-1835 and 1838-1839, with Caleb B. Smith and Thomas J. Evans serving two sessions each. For the next five sessions (through 1843-1844) five separate Democrats served. During the last eight sessions under the first Constitution three Whigs and four Democrats served, with only Democrat George W. Carr serving twice. (See Appendix A, Table 1.)

A composite picture shows that the twenty-seven men who served as speaker during the first thirty-five sessions most likely came from the older counties in southern Indiana. The speaker was thirty-nine years old on average, with Caleb B. Smith elected at age twenty-seven in 1835 and John S. Simonson elected at age forty-nine in 1845 being the youngest and oldest respectively. The odds favored his being a lawyer, since 63 per cent were lawyers as opposed to 22 per cent of all who served in the House during the same years; he had almost four years previous legislative experience in Indiana, as compared with less than two years for his colleagues; and he was almost four times more likely to have attended college than other members. Speakers were also amongst the more politically active men in the state and frequently used the speakership as a steppingstone to higher office. Ten of the twenty-seven also served in the state Senate. Six advanced to the United States House of Representatives, including John W. Davis who served as speaker of that body from 1845 to 1847. Davis also was territorial governor of Oregon from 1853 to 1854. Two of the early speakers, Isaac N. Blackford and Stephen C. Stevens, later served on the state Supreme Court. Blackford and Caleb B. Smith, who gained national prominence as secretary of the interior in the cabinet of Abraham Lincoln, also served as federal judges. Still another speaker, Thomas J. Henley, moved to California in 1849 and served there as a state representative from 1851 to 1853. Among speakers who sought higher office and lost, five were defeated for governor of Indiana; seven for lieutenant governor; and eight for the United States House. In addition, four were defeated in contests for the United States Senate.[69]

The first speaker, Isaac Blackford, stood in contrast to all others and seemed a most unlikely man to fill the post. Dour, introspective, shy, retiring—almost a recluse—Blackford compiled a long and distinguished record as a state Supreme Court judge between 1817 and 1852. But at public speaking, a hallmark of almost every speaker of the House, Blackford was so poor that in the only jury case he had as a lawyer "he made so lamentable a presentation . . . he utterly failed."[70] Amos Lane, the second speaker, was Blackford's antithesis. A tall, commanding personality with "gestures easy and graceful [and] his enunciation distinct and

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[69] Data on speakers are drawn from *A Biographical Directory of the Indiana General Assembly* (2 vols., Indianapolis, 1980, 1984), Vol. 1, *1816-1899*. During the pioneer period, four speakers were from Knox County, three from Clark, two each from Dearborn, Jefferson, and Harrison, and one each from Jackson, Washington, Monroe, Franklin, Gibson, Union, Warren, Fountain, Putnam, Sullivan, Fayette, Carroll, and Lawrence.

[70] W. W. Thornton, "Isaac Blackford, The Indiana Blackstone," *Indiana History Bulletin*, 8 (1931), 323. This article is an excellent summary of Blackford's career.

deliberate," Lane appeared in forty-six cases before the Indiana Supreme Court, where the "causes" in which he was retained included murder, assault, slander, riot, ejectment, trespass, forcible entry, and bastardy. Lane's popularity was such that when he managed an impeachment case for the House in 1821 the Senate moved to the House chamber midway through the trial in order to accommodate the large number of spectators.[71]

While few speakers were as flamboyant as Lane, most presided effectively and at the end of each session the House usually resolved to "approve of the dignified and impartial manner, in which [name] has discharged his duty as Speaker of the House." By unanimous consent in 1823 a special encomium was added for General Washington Johnston: " . . . that this House feel a lively interest in his future happiness and welfare."[72] Although not the most astute speaker, Johnston was one of the most popular and certainly was memorable in appearance. He stood not quite five feet tall, with very black eyes, black hair, and side whiskers. In the words of an acquaintance who remembered Johnston at Vincennes in his prime, "He had a dimpled chin . . . was spare built and rather diminutive . . . [with] a full round face, small hands and feet, and [he] wore black cloth clothes, and a high crown hat."[73]

Charles H. Test began a long career in Indiana politics at the 1826-1827 session when Harbin H. Moore served his first term as speaker. According to Test, "I never saw a man that could preside better than Moore. He was not much of a lawyer but was a man of fine address and presided with a great deal of tact." Moore also had a weakness for gambling, frequently playing cards all night with Senator John S. Simonson during the session. Test said "in the morning Moore would take the gavil [*sic*] and call [the House] to order. As soon as night came they renewed their gaming." On one occasion they got into a fist fight "and Harvey [Harbin] Moore got a black eye, and for a few days could not preside very well . . . ."[74] Moore was good enough as speaker that he was reelected twice, in 1827 and in 1831.

Caleb B. Smith and Thomas J. Evans, Whigs who served two consecutive terms each as speaker from 1835 to 1839, were remembered as being among the more competent presiding officers of the era. Smith, "a handsome, trimly-built man . . . well-dressed with black broadcloth and . . . black hair," spoke with a lisp. He presided at the session that approved the Mammoth Internal Improvements Act of 1836 and did not use a gavel but a flat ruler which was always on his desk. "Upon taking his seat he would rap with his ruler and then announce 'the *houthe* will *pleathe* come to order.'"[75] Richard W. Thompson remembered Evans

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[71] For Lane's career, see Wendell Holmes Stephenson, "Amos Lane, Advocate of Western Democracy," *IMH*, 26 (1930), 182-83. For the impeachment trial, *House Journal*, 1821-22, pp. 22, 188-89, 210-11; *Senate Journal*, 1821-22, pp. 24-26, 57-58, Appendix, i-iv.

[72] *House Journal*, 1822-23, p. 318.

[73] Johnston file, Legislator, IHSL. See also George R. Wilson, "General Washington Johnston," *IMH*, 20 (1924), 123-53.

[74] Reminiscences of Charles H. Test, 1883, Test file, Legislator, IHSL.

[75] C. P. Ferguson, *Reminiscences of a Journey to Indianapolis in the Year 1836* (Indianapolis, 1893), 354. Emphasis in original.

as a speaker who "devoted himself, with great earnestness—never losing sight of the continuance and completion of the Wabash and Erie Canal. . . . He was universally regarded as among the best Speakers the House of Representatives had ever had."[76] Evans was apparently also one of the more notorious speakers of the era. After the 1837-1838 session, a newspaper in Brookville described Evans as "a worthless, abandoned character" and at the session of 1838-1839 fellow Whig Charles H. Test helped explain such a description. Test was secretary of the Senate and substantiated, in a letter to his wife, the conflicting views of Evans:

> A lawyer by the name of Jefferson Evans is elected speaker—He is a man of some tallents [*sic*], and makes a good Presiding officer—But some say awfully deficient in morals—Sings dirty songs—Tells vulgar stories that would make modestly [*sic*] weep—Drinks wiskey [*sic*]—Gambles, and boasts of the women that he has seduced—How much it is to be regretted that men of capacity to do so much public good—Should be so reckless in their moral deportment?[77]

While undoubtedly a rounder, Evans was remembered as an effective speaker. Although he served from Fountain County, the city of Evansville was particularly pleased with his work on its behalf during his two terms. "To Judge T. J. Evans, Evansville is indebted almost wholly for what it is today, for by his efforts and influence in the Legislature of 1836-37 . . . this city . . . was made the terminus of the Wabash and Erie Canal, and from the location of the canal may be dated the beginning of the growth of this city."[78] Evans may have been especially solicitous of Evansville because that city was named for his brother, Robert M. Evans, who served as speaker at the 1825-1826 session. The Evans brothers are thus additionally noteworthy because they were the first brothers to serve as speaker of the Indiana House, and one of only two sets of brothers to serve in that post in the history of the General Assembly. (The other brothers were George A. and Samuel H. Buskirk, both of whom served as speaker during the 1860s.)

Senate Leadership, Rules, and Other Officers

The powers exercised by the speaker in the House were vested in the lieutenant governor in the Senate. The first and last men to preside over the Indiana Senate during the pioneer period (Christopher Harrison, 1816-1818, and James H. Lane, 1849-1853) had no previous legislative experience. The other eight lieutenant governors served in the General Assembly before they assumed responsibility as the Senate's presiding officer. Ratliff Boon (1819-1824), John H. Thompson (1825-1828), Milton Stapp (1828-1831), David Hillis (1837-1840), and Paris C. Dunning (1846-1848) served in both houses beforehand. David Wallace (1831-1837) and Samuel Hall (1840-1843) served only in the House; Jesse D. Bright (1843-1845) served only in the Senate.[79]

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[76] Reminiscence of Evans by R. W. Thompson, Evans file, Legislator, IHSL.

[77] Brookville *Indiana American*, April 20, 1838; Charles H. Test to Rebecca Test, December 3, 1838, Test Papers, Lilly Library, Indiana University, Bloomington. This letter contains additional information on the attack by the Brookville newspaper.

[78] Undated clipping from the Evansville *Journal* in Evans file, Legislator, IHSL.

[79] Data on lieutenant governors are drawn from *BD* 1.

Elections for president *pro tempore* were infrequent and perfunctory until the 1845-1846 session. (See Appendix A, Table 2.) For example, John Paul presided in 1816 until Christopher Harrison was inaugurated. In 1824 James Brown Ray began his ascent to the governorship with election as president *pro tempore* when Lieutenant Governor Ratliff Boon resigned. Then, in 1845, with the Senate roster showing twenty-five Whigs and twenty-five Democrats, the upper house ceased to function as a legislative body for four days after Jesse Bright resigned as lieutenant governor. A Whig, Godlove S. Orth, was elected president *pro tempore* on the ninety-ninth ballot only *after* he promised to resign before the end of the session so that a Democrat could fill the post. Orth resigned on January 12, 1846, and James G. Read was elected.[80] A similar situation arose in 1848 when Paris C. Dunning succeeded James Whitcomb as governor on December 29. Although Democrats enjoyed a 27 to 23 advantage, it took thirty-one ballots before James G. Read defeated fellow Democrat Delavan Martin 25 to 18.[81]

While the rules enforced by speakers and lieutenant governors in the formative years of the General Assembly were not detailed or elaborate, the importance of proper procedure was recognized. Lieutenant Governor Paris C. Dunning especially appreciated the role rules played in the legislative process. In his first address as president of the Senate he stated that rules operated as a check and control on the majority while they sheltered and protected the minority. According to Dunning nothing would more weaken the General Assembly and paralyze its operations than neglect of or departure from the rules. He therefore pledged to administer faithfully the orders and rules of the Senate "in order that each of you in your individual and legislative capacity may be protected, and the . . . rights guaranteed to your constituents, under the constitution and laws, may be properly preserved."[82]

The earliest extant form of the rules Dunning spoke about are for the Senate in 1825 and the House in 1833. A comparison of these with the rules for 1849—the only year of the pioneer period for which the rules of both houses are extant—shows that the General Assembly operated under essentially the same rules for the entire period under the first Constitution.[83] Indeed, the only substantial change was an increase in the number of House rules. The newer House rules dealt with maintaining order in the event of a disturbance on the floor, in the galleries, or in the lobby, and with ordering a member to vote when he refused to do so.[84]

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[80] *Senate Journal*, 1845-46, pp. 51-73, 490; Orth to Schuyler Colfax, December 21, 1845, in J. Herman Schauinger (ed.), "The Letters of Godlove S. Orth, Hoosier Whig," *IMH*, 39 (1943), 374.

[81] *Senate Journal*, 1848-49, pp. 202-14.

[82] *Ibid.*, 1846-47, p. 33. The origin and development of rules is traced in Robert Luce, *Legislative Procedure, Parliamentary Practices and the Course of Business in the Framing of Statutes* (Boston and New York, 1922). Luce concluded that centuries of experience, tempered by prudence, proved lawmakers functioned best when they themselves were governed by law.

[83] *Standing Rules and Orders . . . Senate* (Indianapolis, 1825, 1849); *Standing Rules and Orders . . . House of Representatives* (Indianapolis, 1833, 1849), all in Indiana Division, ISL. For evidence that rules and orders were adopted from session to session until 1825, see *House Journal*, 1816-17, pp. 4, 5; *ibid.*, 1820-21, pp. 5, 58-59; *ibid.*, 1821-22, pp. 6, 8; *ibid.*, 1822-23, pp. 6, 7; *ibid.*, 1823-24, p. 6; *Senate Journal*, 1820-21, pp. 6, 7; *ibid.*, 1821-22, pp. 5-6; *ibid.*, 1825, pp. 6, 7.

[84] *Standing Rules . . . House* (1849), *passim*.

These changes indicated, perhaps, that over the years members of the House were more unruly than senators. The 1825 Senate and 1833 House rules are almost verbatim duplicates except for two items: the interchange of the words Senate and president with House and speaker, and the number of standing committees. The Senate called for five standing committees: elections, ways and means, judiciary, education, and military affairs. The House kept these and added five more: state prison, Indianapolis affairs, claims, roads, and canals and internal improvements. (Generally the House, with its larger membership, had more standing committees than the Senate.)

The first general assemblies drew their rules from those adopted by the House of Representatives during the first territorial assembly in Indiana in 1805. These were in turn based upon rules adopted by the first session of the House of Representatives of the Northwest Territory in 1799.[85] The degree of similarity as well as the level of simplicity was indicated by a sentence in each version (1799, 1805, 1825, and 1833) regarding the doorkeeper: "He shall keep the House clean, and a good fire made therein by the hour of 9 o'clock in the morning, when the weather requires it."[86] Since the rules of the territorial assemblies grew directly out of the report by Elias Boudinot of New Jersey as chairman of a committee to draft a code of rules for the first United States House of Representatives, it can be said that the rules governing the early sessions were drawn essentially from Boudinot's rules.[87] These rules covered less than one printed page in the proceedings of the first United States House, yet they included the major principles then used for the government of parliamentary bodies. Their adoption by the Indiana General Assembly showed that both houses preferred to be governed by a few very simple rules—just enough to make possible the transaction of business. Further rules could wait until time and experience revealed an exact need.

A comparison of the earliest extant rules shows both houses originally had fifty-two rules treating subjects in exactly the same order, plus eight joint rules in 1825 and nine by 1833. The only substantive difference reflected the fact that the president of the Senate voted only in case of a tie while the speaker of the House always voted, and a tie vote in the House was a lost vote. In the respective houses the president or the speaker had to rise when putting a question or speaking to a point of order. The speaker voted whenever a ballot was taken and on roll calls he was listed last. If the speaker (or president) addressed the house, conversation, reading, and "moving about" had to cease. When anyone was speaking, no member could leave the hall, or pass between the speaker and the chair. No member could speak twice on the same subject without leave, and not even then

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[85] Gayle Thornbrough and Dorothy Riker (eds.), *Journals of the General Assembly of Indiana Territory, 1805-1815* (Indianapolis, 1950), 30-37.

[86] *Standing Rules . . . Senate* (1825), 12; *Standing Rules . . . House* (1833), 12. In 1849 both houses retained nearly the same language, stating that the doorkeeper shall "at all times keep good and sufficient fires when the same may be necessary . . . ." *Standing Rules . . . Senate* (1849), 9; *Standing Rules . . . House* (1849), 11.

[87] Boudinot's rules are summarized in De Alva Stanwood Alexander, *History and Procedure of the House of Representatives* (Boston and New York, 1916), 180-82.

until all others who desired to speak to the issue had spoken. Bills were introduced only on report of committee or by giving a day's notice of a motion for leave. All bills were considered in the order of their introduction unless otherwise specifically directed. Once introduced, a bill was read three times. The first reading was for information and, if not rejected at that point, the bill passed to second reading. If not rejected then, it was engrossed ("written in a plain round hand"). The engrossed bill then passed to a select committee or to a committee of the whole before third reading and final action. If passed, the bill was transmitted to the other house. After passage by both houses, it was enrolled on paper, compared by a member of each house with the engrossed version, then signed by the speaker of the House and the president of the Senate for presentation to the governor. In case of disagreement between the two houses, a conference committee composed of members from each house endeavored to compromise the matter in dispute.

In practice, almost all legislative business was conducted initially by standing committee, by select committee, or by committee of the whole. The committee form of organization seemed natural because it met the need for a systematic method of conducting business. In Indiana, as elsewhere, standing committees proved logical for transactions that it was known would arise at every session. There also were select committees. These appear to have originated with annual messages from governors because such messages treated subjects that required legislative attention. Although called select committees, as a matter of fact they remained in existence throughout the session and in every respect resembled standing committees. Whether standing or select, in the first instance committees considered only subjects, not bills. The subjects could be introduced by resolution, by a communication from the governor or a department head, or by petition. Whatever the subject, in the normal course it was referred to a committee for a report. When the report was ready, the house usually sat as a committee of the whole to consider it.[88] After the mind of the house was clear, the standing committee or another select committee was appointed to draft and bring in a bill in accordance with the specific instructions of the committee of the whole.

No record of the debates and proceedings in committee rooms was kept. Information is therefore lacking on formal details such as method of appointment, time and place of meeting, and the external features of committee organization.

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[88] The term committee of the whole is a misnomer that has been accepted as the approved designation for an informal sitting of a legislative body. It was not a committee at all, but a meeting of the entire membership of a house conducted under rules different from those of a formal session. Restrictions on the number of speeches were removed, and the presiding officer, addressed as "Mr. Chairman," was any member selected for the occasion except the speaker of the House or the president of the Senate, both of whom were required to vacate the chair. The purpose was to enable members to thrash out a question more completely than could be done under the limitations imposed by regular rules. For the origin and development of legislative committees, see Ralph Volney Harlow, *The History of Legislative Methods in the Period Before 1825* (New Haven, Conn., 1917). Harlow traced the growth of the committee systems in the lawmaking bodies of the colonies and states from 1750 to 1790 and in the U.S. House of Representatives from 1789 to 1825. Much of what he said was applicable to the Indiana General Assembly during the pioneer period.

Although information on such questions can be gleaned from the *Journals*—for example, the speaker appointed chairmen of House committees—that source never gives a glimpse of committees at work.

Milton Stapp's legislative apprenticeship showed the haphazard way early committees functioned:

> In 1822, 1st monday in december I took my seat as a member of the house of Representatives, believing candidly and seriously that I must be at the tail end of the House, never having been at a Legislature before I had supposed that the members thereof were very Great men, but when I looked around me upon the countenances of my associates I begin to think that most of them were as great fools as I was . . . .

The speaker appointed Stapp chairman of the ways and means committee after more experienced legislators refused to serve. He was also named chairman of the military committee, and thus was chairman of two standing committees at a time when the House only had five such committees. Stapp stated that he was not competent enough in finance to chair the ways and means committee; but he educated himself "by looking into the auditors & treas[urers'] Books night after night & on some Sundays and soon mastered the subject." Stapp stood by his ways and means report a quarter century after the session ended. He claimed it was the first such report ever printed and concluded "I have never been ashamed of it."[89]

Before 1835, when the General Assembly occupied the first State House, the place of meeting for committees was quite random. Since both the Harrison County and Marion County courthouses lacked sufficient space, legislative committees at Corydon and during the first decade in Indianapolis met in hotel rooms or private homes.[90] As Milton Stapp indicated, the usual time of meeting was in the evening after daily sessions although committees could meet in the morning before the houses assembled. In emergencies, committees met on Sundays.[91] The burden on chairmen must have been great since they spent all day in session and half the night on committee work with little time for relaxation and barely enough time for sleep.

An example of committee work at its best occurred at the 1837-1838 session when the Senate judiciary committee examined the expediency of abolishing public executions. Members spent hours studying the experience of European countries

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[89] Memoirs of Milton Stapp, 12-13, typescript, IHSL. Spelling as in original.

[90] The first State House had committee rooms on the first floor, although the exact number cannot be determined. A notice "To Draftsmen" in the Vincennes *Western Sun*, June 11, 1831, indicated original plans called for six. A description of the finished building in 1847 noted only that "the committee rooms . . . are on the first floor" without specifying a number. See "Capitol of Indiana," *The New Family Pictorial Magazine*, 34 (1847), 515, in clipping file on State House, Indiana Division, ISL.

[91] In 1821 the House appointed a select committee on Saturday, January 6, to study charges against a clerk of court in Vigo County. The committee obviously met on Sunday since on Monday it submitted a report recommending formal articles of impeachment be drawn. A second committee presented the articles on Monday evening, and the House adopted them almost as the last order of business before adjournment *sine die* on Tuesday afternoon, January 9. See case of Curtis Gilbert, *House Journal*, 1820-21, pp. 281, 295, 296, 314.

and other American states. They examined the opinions of leading authorities and writers upon criminal jurisprudence. The committee concluded that, far from deterring crime, public executions only appealed to "the dissipated and the riotous, whose animal feelings alone are to be excited, and whose souls are deadened to the tenderer impulses of the human heart." Committee chairman Richard W. Thompson reported a bill to abolish public executions. Although it passed in the Senate, Thompson's bill was rejected by the House. Nonetheless, the committee report was as thorough and dispassionate a study of public executions as could be found.[92]

Not all who sought office in the General Assembly ran for seats. For example, at the beginning of the 1828-1829 session, Dennis Pennington wrote that "I never saw so many applicants for office in my life."[93] Pennington, who served Harrison County almost continuously from the territorial session of 1810 through the session of 1832-1833, was speaking about the annual scramble for election to the clerical and housekeeping posts in the legislature. These positions were eagerly sought and in at least one instance were more lucrative than serving as an elected member. John Finley, the poet from Richmond, served three terms as a representative from Wayne County between 1828 and 1831. He earned a total of $382 in travel and per diem during those years. Finley liked the idea of "hobnobing [*sic*] with a bevy of Big Wigs. So well in fact that he finagled to stay on in Indianapolis another 3 years as Enrolling Secretary of the State Senate." In that post he earned $661.50 for the three sessions, almost twice as much as his pay while a member.[94] Requests to lawmakers for support in election to assembly positions began as soon as winners were known each August and continued right up to the opening of the session.[95] This resulted in dozens of applicants for each post. Their method of seeking support was described by an Indianapolis newspaper in 1845:

> Strangers are flocking into our city, and it begins to wear the usual appearance of the Session season. Candidates, especially, are plenty. We presume, at least a dozen for each office, and when, perchance, they meet with a member who has this early arrived, they put on their blandest smile, to him and are all complaisance. We do not envy them their anxious feelings, nor the bitter regrets, of nine out of ten who must necessarily be defeated.[96]

Representative Martin L. Bundy of Henry County was thoroughly disenchanted by "Such a multitude of office seekers, as . . . has never before been seen" at the opening of the 1848-1849 session. He was not happy until the elections were

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[92] *Senate Journal*, 1837-38, pp. 259-65; *House Journal*, 1837-38, pp. 765, 766.

[93] Pennington to David G. Mitchell, December 1, 1828, English, IHSL.

[94] James Lamar Weygand, *John Finley's Verse* (Nappanee, Ind., 1947), 14.

[95] For an example of such requests, see Jonathan Jennings to Senator John K. Graham, September 17, 1825, in "Some Additional Jennings Letters," *IMH*, 39 (1943), 294-95. Jennings wrote on behalf of a bid by James M. Ross for secretary of the Senate. Jennings stated that the election of Ross would "be gratifying to me, and gratefully acknowledged by himself." For other examples see Jesse Jackson to David G. Mitchell, August 22, 1832, and Albert S. White to Mitchell, September 25, 1832, English, IHSL; John R. Ross to William G. Armstrong, August 16, 1838, in John Armstrong Papers, IHSL.

[96] Indianapolis *Daily Spectator*, November 25, 1845.

over and the office seekers dispersed: "The people's representatives having disposed of their favorites, can now press forward the legitimate business of legislation."[97]

Although these elections rarely raised political ire, they sometimes were close and occasionally required several ballots.[98] Many sought these offices as a means of launching a political career. William H. English was perhaps the best known example. English entered politics with election as principal clerk of the House at the 1843-1844 session. Former Speaker Thomas J. Henley advised English that "the Clerkship . . . is a better situation than representative" for beginning a career in public life. Henley felt this was the case because as clerk English could learn the legislative process before becoming a lawmaker.[99] English went on to serve as secretary of the Constitutional Convention in 1850-1851, as speaker of the Indiana House at the 1851-1852 session that implemented the new Constitution, and four terms in the United States House of Representatives from 1853 to 1861.

The General Assembly and the Press

Wherever legislatures convened the lure of public printing was sure to attract a newspaper publisher or two because legislatures kept journals, passed laws, and issued other public reports that had to be printed.[100] The experience of Elihu Stout, who published the first newspaper in Indiana at Vincennes in 1804, clearly established both the necessity and the profitability of a newspaper in the capital city. Stout's *Indiana Gazette*, later the *Western Sun*, prospered and survived because he was designated "PRINTER TO THE INDIANA TERRITORY" until 1813. The arrangement enabled Stout to print the federal statutes plus nine volumes of territorial laws in addition to his weekly newspaper.[101] Since a newspaper was so important an adjunct to legislative work, it is surprising that Corydon served as territorial capital for three years without one. When the Constitutional Convention met there in June, 1816, the convention journal had to be printed twenty-five miles away at Louisville.[102] Five months later, however, with statehood imminent and a public

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[97] Bundy to New Castle *Indiana Courier*, November [December] 6, 17, 1848, reprinted in "Letters of Martin L. Bundy," *IMH*, 22 (1926), 85-86, 88.

[98] For example, in 1829 it took three ballots to elect Edwin Winship as enrolling clerk and four ballots to elect Aquilla Rodgers sergeant-at-arms in the House and five ballots for the Senate to elect a doorkeeper. *House Journal*, 1829-30, pp. 6, 7; *Senate Journal*, 1829-30, p. 5.

[99] Henley to English, April 5, 1844, English, IHSL.

[100] The legislative *Journals* and the *Laws* were the primary sources published annually by the state printer. The state did not begin its *Documentary Journal* until 1835. Prior to that time, not many reports were printed. Those that were usually appeared in the *Senate* or *House Journal*. Unfortunately the early volumes of the *Documentary Journal* did not provide either a volume number or a general index, and many lacked a comprehensive table of contents. This was remedied somewhat in 1899 when the state authorized publication of "such an index as will reveal and make accessible the several reports contained in these volumes." See *Index to Documentary Journal of Indiana to 1899* (Indianapolis, 1900), Indiana Division, ISL.

[101] For Stout's career, see Donald F. Carmony, "The Pioneer Press in Indiana," *IHB*, 31 (1954), 189-95.

[102] Donald F. Carmony, "Introduction," *Journal of the Convention*, in *IMH*, 61:84.

printing contract worth approximately $400 annually to be let, Corydon had two newspapers when the first General Assembly convened.[103]

The first session elected Reuben W. Nelson state printer and passed legislation directing the secretary of state, the auditor, and the treasurer to name a printer prior to the opening of every subsequent session.[104] Armstrong Brandon was named public printer in 1817 and 1818 under the terms of this law. In 1819 the Corydon publishers split the contract and in 1820 the General Assembly could not agree between the two men.[105] When promulgation of the laws was subsequently delayed for seven months in 1821, a newspaper in Vincennes advised future legislatures and printers to remember that "good antinomial types are better than *hobnails*; and one lusty pull at the bar is much preferable to a dozen *logrollings*."[106] John Douglass won the contract in 1822 after "pledging to establish a printing office . . . for the public convenience." He kept the appointment in 1823, and in 1824 Douglass moved to Indianapolis where he established, along with Douglass Maguire, the *Indiana Journal* in January, 1825. Douglass was subsequently named state printer for the first three sessions in the new capital.[107]

While the printing of statutes and the official record was an important function of capital city newspapers, providing news about the General Assembly was equally important. John Douglass promised in his prospectus to give "as full and satisfactory accounts of the proceedings of our state legislature and the affairs of the government as the limits of the paper will admit."[108] Douglass kept his word by publishing semiweekly editions while the assembly was in session. His paper summarized proceedings, printed certain laws in full, listed the acts passed, and editorialized on the questions and personalities of the moment. When Douglass announced in 1828 that he would publish twice a week during the General Assembly, he added "And no pains [will be] spared to afford a full and faithful detail of its proceedings." This was the first attempt to publish debates in the assembly's history.[109] Newspapers elsewhere in the state followed Douglass' lead, and since the legislative *Journals* have never included debates, it is only through the newspapers that this important aspect of the legislative process can be followed during the pioneer period.

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[103] These newspapers were the *Indiana Herald*, published by Reuben W. Nelson, and the *Indiana Gazette*, published by Armstrong Brandon. It is uncertain which appeared first. Carmony, "The Pioneer Press in Indiana," *IHB*, 31:205-6.

[104] *House Journal*, 1816-17, pp. 22, 26, 27, 83, 87; *Senate Journal*, 1816-17, pp. 22, 23; *Laws*, 1816-17, pp. 245-47.

[105] *House Journal*, 1817-18, p. 13; *ibid.*, 1819-20, p. 74; *Laws*, 1819-20, pp. 25-28. The controversy over who should get the contract can be followed in *House Journal*, 1820-21, report of Secretary of State Robert A. New, 26, 27, report of committee on public printing, 36, 89-90, and letter of William H. Lilly and Daniel C. Lane, 42-43.

[106] Vincennes *Indiana Centinel & Public Advertiser*, January 13, 1821. Emphasis in original.

[107] For Douglass' first two contracts, *House Journal*, 1822-23, pp. 21-22; *ibid.*, 1823-24, p. 31. Douglass received part of the state printing contract every year through at least 1842 except for the years 1828 to 1830. For the origins of the *Indiana Journal*, see Carmony, "The Pioneer Press in Indiana," *IHB*, 31:209-10.

[108] Indianapolis *Indiana Journal*, January 11, 1825.

[109] *Ibid.*, November 20, 1828.

George Smith and Nathaniel Bolton established the first newspaper in Indianapolis even before John Douglass arrived in town. On January 28, 1822, only a few months after the sale of town lots began and when the population was under 500 residents, the Indianapolis *Gazette* appeared.[110] Bolton, who became a partisan Democrat, later competed annually with Douglass for the state printing contract.[111] At the outset, however, there was no hint of partisanship as Smith and Bolton focused on building a new city. As early as June, 1823, they discoursed on the role of the General Assembly in state government. "The act of legislating is an exercise of the supreme power in a state," the editors wrote, because "every department of the government . . . comes within their [legislators'] supervision." Smith and Bolton then set high standards for lawmakers:

> Upon their justice, wisdom and prudence, depends the happiness of the people and the prosperity of the state. A legislator then, should be acquainted with the first principles of the science of government: He should have at least a knowledge of the general outlines of the system which he undertakes to aid in preserving and perfecting. In addition to natural talents at least of the medium grade, his mind should be enlarged by reading and study, and his judgment ripened by observations and experience. And to enable him to use his talents and information for the benefit of his constituents, he should be acquainted with the manners and situation of the country which he represents.

The *Gazette* added that there was something even more necessary to qualify one for legislative service: "for although his talents may be the most brilliant and his acquirements the most extensive, yet without true patriotism, honesty and integrity, he is worse than ignorant." The paper concluded that it was a matter of primary importance to know whether candidates evinced devotion to these virtues.[112] Thus Indiana legislators were put on notice at least eighteen months before the move to the wilderness capital that they would not escape the watchful eye of the press even in the woods of Marion County.

Once established in the new capital, the General Assembly permitted, if it did not always welcome, scrutiny by the press. As early as 1825 resolutions were approved to provide accommodations for reporters of Indianapolis newspapers. This practice became commonplace and eventually was extended to reporters from all over the state. The assumption was that, given easy access to follow the proceedings, reporters and editors would provide fair coverage. The system worked well enough that in 1850 the Senate resolved that "thanks . . . are due, and are

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[110] John W. Miller, "The Pioneer Newspapers of Indiana, 1804-1850" (Ph.D. dissertation, Purdue University, 1975), 50-51. For the population of Indianapolis in 1822, see W. R. Holloway, *Indianapolis: A Historical and Statistical Sketch of the Railroad City* (Indianapolis, 1870), 17.

[111] For the history and politics of early Indianapolis newspapers, see "Newspapers of Long Ago," Indianapolis *Journal*, August 11, 1889. In 1830 the *Gazette* became the *Indiana Democrat*, a name retained until 1841 when George A. and Jacob P. Chapman purchased the paper and changed the name to the *Indiana State Sentinel*. On December 6, 1841, the Chapmans began publishing a daily while the legislature was in session. In 1842 the *Indiana Journal* also began daily publication during sessions. In the 1840s John D. Defrees purchased the *Journal*, and during the Constitutional Convention in the fall of 1850, Defrees inaugurated the city's first daily newspaper on a permanent basis. In April, 1851, the *State Sentinel* also became a daily.

[112] Indianapolis *Gazette*, June 7, 1823.

hereby tendered to the reporters of the Indiana State Journal and the Indiana State Sentinel for the prompt and impartial manner in which they have reported the proceedings . . . ."[113] Of course, lawmakers were not always so pleased with the way the press covered their doings. After the Brookville *Indiana American* published a story especially critical of the House during the 1844-1845 session, one member who preferred to remain anonymous told the editor exactly where he could go:

SIR:—Suppose you go to Hell and search for wisdom and truly great men. What do you know about the members of this House? What do you know about the inferiority of this House? Why do you publish the present House as almost devoid of truly great men. I trust, sir, we are honest, and honest men are the noblest works of God. A MEMBER.[114]

In 1839 a House committee charged John Livingston, editor of the *Indiana Democrat*, with overcharging for state printing. In retaliation, Livingston published what the Whig *Indiana Journal* described as a "grossly vulgar and abusive, and utterly false" attack on Samuel H. Smydth, the committee chairman. Since the House had concurred in Smydth's report unanimously, that body wasted no time in voting 57 to 11 to expel Livingston. The expulsion, described by a Democratic newspaper in Terre Haute as "disgraceful to the Legislature and humiliating to the State," was the only such occurrence during the pioneer period.[115]

Legislators received three to five copies of capital city newspapers for mailing to constituents at public expense as an important perquisite of office. This custom, a little noticed aspect of legislative-press relations, probably originated with the first United States Congress in 1789 and spread to the various state legislatures as they were formed.[116] The Indiana General Assembly adopted the practice in 1831 when the Senate resolved, without fanfare or roll call, to provide three copies of the *Indiana Journal* and the *Indiana Democrat* to each member. Although a similar resolution failed in the House in 1831, representatives approved the practice the following year.[117] After that, at each session through 1850-1851, except during the financial crisis of the early 1840s, both houses approved the purchase of three to five copies per member of each newspaper published in Indianapolis. Eventually, even foreign language newspapers like the German *Indiana Volksblatt* were included.[118]

The practice of furnishing newspapers to members sometimes caused a furor, but usually not. Since only the Indianapolis newspapers benefited, newspapers

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[113] *Senate Journal*, 1850-51, p. 625.

[114] Brookville *Indiana American*, reprinted in Indianapolis *Indiana State Sentinel*, January 2, 1845.

[115] *House Journal*, 1838-39, p. 626; Indianapolis *Indiana Journal*, February 23, 1839; Terre Haute *Wabash Enquirer*, reprinted in Indianapolis *Indiana Democrat*, March 27, 1839.

[116] Robert Luce, *Legislative Assemblies: Their Framework, Make-up, Character, Characteristics, Habits, and Manners* (Boston and New York, 1924), 569, 570. Luce stated that one of the first things Congress did was to provide members with newspapers, to be paid out of the public treasury.

[117] *Senate Journal*, 1831-32, p. 8; *House Journal*, 1831-32, pp. 27, 28; *ibid.*, 1832-33, pp. 39-41.

[118] *Senate Journal*, 1848-49, pp. 25, 26.

published elsewhere in the state sometimes opposed legislative subscriptions. A vigorous denunciation of the practice was published by the Brookville *Indiana American*. This newspaper estimated the cost in 1838 at $2,400 and pledged to "hold those accountable who vote for such prodigal expenditures."[119] The estimate was probably high, although costs cannot be determined before 1842 since the expense was included under "stationery" in the annual reports of the treasurer. Appropriations ranged from $294 for papers in the House in 1842 to $1,095 for both houses in 1850.[120] A resolution by Representative Solomon Meredith of Wayne County, approved 50 to 48 in 1847, offered three reasons why lawmakers ordered the papers every year: first, there was a great desire among the people to be informed about the legislature; second, the legislature was long in the habit of subscribing to newspapers; and third, the practice enabled the House to be informed of proceedings in the Senate on a daily and full basis.[121]

Journalists and lawmakers were separate but linked participants in the historical process under the first Constitution. Lawmakers made history at the same time they made the laws of the state; journalists knowingly recorded the legislative process for the moment, and less knowingly for posterity. Most lawmakers recognized that the press and the legislature were inextricably intertwined in the everyday business of campaigns, elections, and sessions. A senator-journalist in 1850, David P. Holloway, might have recognized a deeper significance in the relationship: the fact that history would bind the assemblies of the pioneer period forever to the newspapers of the era with libraries as a permanent link.

Holloway, editor of the Richmond *Palladium*, introduced a bill in 1850 directing the State Library to procure a copy of every newspaper printed in Indiana. The bill passed in the Senate after it was amended to limit procurement to newspapers "voluntarily contributed by publishers." Another senator-editor, James M. Hanna of the Greencastle *Patriot*, objected to procuring newspapers for the library by any means. "Editors are often driven . . . to write and publish things as true," Hanna wrote, "which, in their cooler moments even they would admit were unjust, if not absolutely false." Newspapers therefore could not be relied upon "as a correct history of men" and did not belong in a library. When Holloway's bill reached the House, it was rejected without a first reading.[122] The contrasting positions of Senators Holloway and Hanna typified an ambivalence that frequently marked relations between the General Assembly and the press. Without politics, the editors would have little to write about; without newspapers, politicians could not make themselves or their views known. The two depended on one another, but they never quite trusted one another.

The Laws: Revenue and Taxation

The legislative process produced 9,094 laws and 746 joint resolutions during the pioneer period. Most were only of local or individual application; a few dealt

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[119] Brookville *Indiana American*, January 5, 1838.

[120] *Laws* (general), 1841-42, p. 137; *ibid.*, 1849-50, pp. 7-9.

[121] *House Journal*, 1847-48, pp. 20-21.

[122] *Senate Journal*, 1850-51, pp. 198, 243-45, 267, 297 (Hanna quotation), 562-63, 589; *House Journal*, 1850-51, pp. 726, 727.

with matters of statewide concern.[123] Laws imposing taxes were the most important of those that applied statewide. They were the means whereby the legislature funded state government. A report by the House ways and means committee on the "interesting and delicate matter" of taxation noted precisely why tax laws were the most important of all laws in terms of impact on people's lives: "It is a matter that is brought home to the very pockets of our citizens."[124] In the same report the committee spelled out the general philosophy of taxation that guided legislative action through most of the era:

> The burthens of sustaining the government, should be justly and equally distributed; all claim to participate equally in its protection and its blessings, hence, all should cheerfully acquiesce in that necessity, which obliges all governments to exact a portion of the [p]roperty of each of its citizens to make the wheels of government progress: diffusing in its operation those guards and that safety, to persons and property, without which no civilized community can exist.[125]

Pioneer legislatures enjoyed varying success as they strove to construct and implement a tax system that would accomplish at least two things: one, provide the state with sufficient revenue; and two, at the same time be just and equitable for all citizens. During the early years most revenue was derived from taxes on land. The basic law, enacted at the first session, divided land into three classes: first-rate, second-rate, and third-rate. The tax rate set on 100 acres was $1 first-rate, 87.5 cents second-rate, and 50 cents third-rate. Assessments were made without regard to how location or improvements might affect value. Sheriffs were directed to collect the tax in each county and forward it to the state treasurer.[126]

The first tax system failed to raise sufficient revenue for several reasons. First, under the Indiana Enabling Act of 1816 Congress exempted all federal land sold after December, 1816, from taxation for five years. A joint resolution in 1820 asked Congress to modify this exemption but a United States Senate committee reported "adversely" on the Indiana memorial.[127] The lack of a collection method

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[123] For a breakdown by session and by kind of laws passed during the era, see "The Passage and Taking Effect of Acts and Joint Resolutions in Indiana Under the Constitutions of 1816 and 1851," typescript compiled and edited by the Indiana Legislative Bureau, July, 1935, Table II, 18a to 18i, in Indiana Division, ISL. Bills that passed during the first eighteen sessions were designated simply as *Laws* except in 1818, 1824, and 1831 when revisions made modifying designations of "general," "local," or "revised" necessary. From the 19th through the 35th sessions (1834 to 1851), statutes were designated *Laws* (general) if they were applicable statewide; if they were only of local application or were private bills, they were designated *Laws* (local) or *Laws* (special).

[124] *House Journal*, 1832-33, p. 222.

[125] *Ibid.*

[126] *Laws*, 1816-17, pp. 131-40. These rates fluctuated almost on a year-to-year basis until the 1830-31 session reduced rates to 80 cents, 60 cents, and 40 cents for first-, second-, and third-rate land respectively. *Ibid.*, 1817-18, pp. 256-73; *ibid.*, 1819-20, pp. 150-53; *ibid.*, 1820-21, pp. 8-9; *ibid.*, 1821-22, pp. 105-8; *ibid.* (revised), 1830-31, pp. 426-45. For summaries of early tax legislation, see William A. Rawles, *Centralizing Tendencies in the Administration of Indiana* (New York, 1903), 252-64; James Edward Hagerty, "Early Financial History of Indiana, 1816-1872," *IHB*, 14 (1937), 265-310.

[127] For the memorial, *Senate Journal*, 1820-21, p. 56; for rejection by the U.S. Senate, Vincennes *Western Sun*, February 17, 1821.

that ensured the collected funds were forwarded to the state treasury was another reason the first system proved inadequate. Indeed, in 1819 the state sued a sheriff in Wayne County because "it is probable that the state may be losing one thousand dollars [annually]." The legislature passed amendatory acts almost annually to improve collections, acts that were also intended to prevent loss of revenue through delinquency or defalcation.[128] In 1822 lawmakers imposed a poll tax of up to 50 cents on males twenty-one years of age and older to raise additional revenue.[129] The House ways and means committee reported in 1833 that nearly half of the state's revenue was derived from the poll tax.[130]

In 1828, while ways and means wrestled with the annual problem of raising funds sufficient to cover appropriations, the House charged a select committee to ascertain the value of taxable property. This select committee made a comprehensive inquiry and found that the existing mode of taxation was "unequal, unjust and inefficient." According to the committee's report, the system was unequal and unjust because it placed the heaviest burden on the most industrious citizens in each community while nearly exempting large land owners, speculators, and absentee landlords. The system was inefficient because, although the number of taxable acres had increased from 2,684,000 in 1824 to just over 3,450,000 by 1827, during those same years the number of acres taxed as first-rate declined from 206,748 to 192,025. The total acreage assessed as first-rate declined despite the fact that, in the opinion of the committee, one third of all land taxed in the state "ought in justice to be returned first rate." The committee concluded that the best solution to Indiana's tax and revenue problem was to replace the land tax with an *ad valorem* tax on real and personal property.[131] This report initiated a protracted debate on tax policy that lasted until 1835. Proponents of an *ad valorem* system argued on the floor during sessions and in the newspapers throughout the year that the land tax should be scrapped in favor of a system wherein taxes would be fixed at a certain percentage according to the valuation of real and other property.

The House ways and means committee spelled out a convincing case against *ad valorem* in 1833. While on the surface *ad valorem* seemed an equal system of taxation, the committee report stated, it would be extremely unequal in Indiana. It would bring "every species of property" within reach of any revenue law that any legislature might enact. An *ad valorem* tax would also increase the public burden in the older counties by bringing not only lands but all improvements thereon within the reach of revenue laws. Furthermore, if an *ad valorem* tax were enacted the public would demand repeal of the poll tax. In 1832, the committee

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[128] Suit against sheriff, *House Journal*, 1819-20, p. 237; for example of an amendatory act, *ibid.*, 1820-21, pp. 66-67, and "An Act amendatory to the several acts regulating the assessment and collection of revenue," *Laws*, 1820-21, pp. 8-9.

[129] The act also imposed a tax of up to 25 cents on all work oxen three years old and older. *House Journal*, 1821-22, pp. 339-48; *Laws*, 1821-22, pp. 105-8. See also Clement T. Malan, "A History of the Poll-Tax in Indiana," *IMH*, 31 (1935), 324-32.

[130] *House Journal*, 1832-33, p. 223.

[131] *House Journal*, 1827-28, pp. 279-82.

pointed out, nearly half of the state's revenue came from the poll tax. Influenced by these views, the ways and means committee deemed it "inexpedient to adopt the ad valorem system of taxation at the present time."[132]

The debate over changing from a land tax to an *ad valorem* tax ended in 1835 when the General Assembly passed an act making real property and certain kinds of personal property subject to taxation at "fair and true valuation." Property subject to such taxation included all lands and town lots; all improvements on land or lots; all horses, mules, and asses over the age of three years, and most cattle and hogs; all carts, wagons, and two- and four-wheeled carriages; brass and wooden clocks and gold and silver watches; libraries of all physicians and lawyers; all manufacturing facilities; and the capital of all merchants. The rate of taxation was to be fixed by the legislature after assessors in each county compiled a list of each person's property and estimated its value. The lists were to be forwarded to the auditor of state who would present the tabulations to the General Assembly for action.[133]

The "fair and true valuation" envisioned by the 1835 act was never achieved. The law directed clerks of the circuit courts to make the assessments. In practice, according to an eloquent analysis by the Senate finance committee in 1843, these clerks hired assistants to do the work. Generally, the assistants were the youngest and poorest paid workers in the county. The committee found three basic problems resulted from the "tedious and complicated calculations . . . made out by some inexperienced youth, who, receiving but little for his services except the insight, bestows as little labor on it as possible . . . ." One, there was widespread disparity in assessments; two, there were thousands of taxable acres left off the tax roles; and three, still other thousands of acres were assessed twice, once in the name of the original owner and again in the name of the current owner. It was, said the committee, a "bungling and apprentice way of doing business . . . ."[134] The deficiencies in the assessment system led to the passage of five laws in 1841 to revise the tax system and make it work. The first act established boards of equalization in each county and a state Board of Equalization to review and correct the assessments on a county-by-county basis. The state board was composed of the auditor of state plus one person resident in each of the eleven judicial districts. These latter were to be elected by joint resolution after the bill became law.[135] The other acts took the power of assessment away from the court clerks and gave it instead to county auditors, assessors, and treasurers.[136]

When the legislature created the state Board of Equalization it intended to establish a mechanism to ensure that the tax on real property was relatively equal statewide. If a valuable public work, or a navigable stream, or any natural or artificial advantage ran through a county, that county's average valuation of land for taxable purposes ought to be higher than the valuation in a county lying

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[132] *Ibid.*, 1832-33, pp. 222-24.
[133] *Laws* (general), 1834-35, pp. 12-22.
[134] *Senate Journal*, 1842-43, pp. 190-91.
[135] *Laws* (general), 1840-41, pp. 3-10.
[136] *Ibid.*, 10-24, 25-27, 27-34.

remote from such a work. The Senate finance committee defended the board in 1842 with these words: "this board . . . surveys the whole State and so adjusts the relative appraisements of the several counties . . . [so] we approximate that absolute justice which all good citizens desire, and even the bad pretend to."[137] The state board proved so unpopular, however, that the section of the 1841 act establishing it was repealed in January, 1842. A protest signed by some 160 citizens of Posey County illustrated the kind of public pressure that led to repeal. The petitioners said that they feared for republican institutions when eleven men not elected by the people or responsible to them were clothed with unlimited power "to increase the taxes of the whole State, or of any county therein at pleasure." The Senate finance committee found the Posey County protest "not only conclusive, but astonishing" evidence that probably not one of the some 160 signers ever saw the law they denounced. Nevertheless, the popular outcry led the legislature to abolish the board only one year after lawmakers created it.[138]

The county boards of equalization also engendered opposition and at the 1842-1843 session the Senate finance committee grappled with a proposal to abolish the office of county auditor. The committee's report, which strongly recommended retaining county auditors, was a thorough examination of the state's tax and revenue policy. Until the act of 1841, which established county and state boards of equalization and made assessments the chief responsibility of county auditors, Indiana suffered from a tax system "which was well nigh without form, and wholely [*sic*] without comeliness, [and which] was conceded on all hands not to be the one which the growing population, wealth, business, and revenue of the State demanded . . . ." Then the system of 1841 was put in place by the legislature, but before its effects could be tested the state Board of Equalization was destroyed. "The impolicy and injustice" of that destruction was apparent after a glance at the auditor's report for 1842, which showed conclusively that Indiana was no closer than ever to fair and true assessments statewide:

> We refer to a few, and but a few, of the glaring inequalities in the appraisement of lands that may be there seen. Lands in Fayette county are valued at an average of $9.76 per acre, and those in Dearborn at $9.07; the former being $2.50 and the latter $1.81 higher than the lands of any other county in the State. The average value of the lands in Wayne county is, in reality, quite equal to that of either Fayette or Dearborn, and yet Wayne stands at $6.47 per acre . . . . Take another extreme of the State; for instance Laporte. In that fertile and flourishing country the lands are averaged at $3.07 per acre, whilst the lands in the comparatively poor counties of Dubois and Martin are averaged at $3.00, making only 7 cents difference. And again, Pulaski, in the interior of the State, . . . with no market or navigable water near, a sparse population, and by no means a superior soil, is averaged at $6.53 per acre, being considerably more than double the average of either Laporte, Dubois, or Martin.[139]

In 1851 the last General Assembly under the first Constitution drew on the experience of thirty-five years to enact two comprehensive new tax laws. The first

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[137] *Senate Journal*, 1841-42, p. 211.

[138] *Ibid.*, 209-12, for report of committee; *Laws* (general), 1841-42, p. 126.

[139] *Senate Journal*, 1842-43, pp. 188, 189-90.

ordered a reappraisal of real estate and aimed at making property values equal and uniform throughout the state. The lawmakers, mindful of past difficulties, spelled out rules for the entire process from assessment, through collecting, to forwarding of revenue to the state treasury. They also mandated a new state Board of Equalization, consisting entirely of elected county officials, who were empowered to equalize valuations and to hear and determine complaints.[140] The second act, a general law for the reassessment and valuation of personal property, also drew comprehensively on the lessons of the past. It listed in detail what constituted taxable property, set stiff penalties for fixing fraudulent values, added intangibles to the tax rolls, and embraced merchants, manufacturers, and incorporated companies.[141] Taken together, the tax laws of 1851 put the state on a sound financial base and greatly eased the transition from the first to the second Constitution.

The Laws: Benevolence, Morality, and Code Revisions

The uncertainty of revenue from taxation led the General Assembly to avoid statewide public assistance programs until the 1840s. This meant Indiana lagged behind many other states during what historian David J. Rothman has labeled "the age of the asylum"—the years between 1820 and 1840 when state benevolent institutions originated.[142] To the extent that care for the poor, the aged, the physically handicapped, and the mentally ill or retarded fell to the community before 1844 in Indiana, it was a county responsibility. Beginning about 1821 facilities called county poor farms or asylums were established to house the indigent and disabled.[143] The quality and level of care in these facilities varied greatly from county to county and there was little effort to correlate treatment with specific need. In most counties the deaf, the mute, and the blind were lumped with the incurably insane for treatment.[144]

This began to change when Sheriff William Bales of Vermillion County sought a school for his deaf mute son in 1841. Sheriff Bales had to place the boy in an Ohio institution because he could not find a suitable school in Indiana. Dis-

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[140] *Laws* (general), 1850-51, pp. 11-19.

[141] *Ibid.*, 27-38. In 1820 the General Assembly had imposed a duty of 25 cents on each $100 of paid up stock in the initial State Bank of Indiana. This was the first tax levied upon a corporation in Indiana but did not raise revenue because the bank collapsed. The law was retained in the revised statute of 1831 and applied to the Second State Bank after its formation. The revised statute of 1843 extended corporate taxation beyond state banks but was administered so loosely that corporations easily circumvented the tax. *Ibid.*, 1819-20, p. 150; *ibid.* (revised), 1831, p. 427; *ibid.* (revised), 1842-43, pp. 229-31.

[142] David J. Rothman, *The Discovery of the Asylum: Social Order and Disorder in the New Republic* (Boston, 1971), xiv.

[143] An act in 1821 enabled Knox County to erect a house for the employment of the poor in Knox County. *Laws*, 1820-21, pp. 102-10. By 1830 additional county asylums were authorized for the poor in Wayne, Harrison, and Jefferson counties. *Ibid.* (special), 1830-31, pp. 6, 7.

[144] For an examination of early public assistance in the counties, see Otto F. Walls, "A History of Social Welfare in Indiana," *IMH*, 45 (1949), 383-87, and Evelyn C. Adams, "The Growing Concept of Social Responsibility Illustrated by a Study of the State's Care of the Insane in Indiana," *ibid.*, 32 (1936), 1-6.

traught, Bales ran for the House in 1842 and won. At the ensuing session he supported a small group from Parke County who lobbied for the state to build asylums for the handicapped and the insane.[145] At the same session a Senate committee reported that there were 241 insane persons either in prisons, in almshouses, or wandering about Indiana with no place to go. The senators admitted this fact reflected "little credit on the laws and institutions of our State," but nonetheless concluded that "the extremely embarrassed condition of the finances of the State" precluded any action.[146] Although the full Senate concurred in this finding, the legislature could not drop the subject so easily. Before adjournment, a joint resolution directed the governor to report at the next session on the feasibility of a state hospital for the insane.[147]

The year 1844 seemed an inopportune time to inaugurate benevolent programs since state government was reeling from the collapse of the internal improvements system. On the other hand, lawmakers were desperate for a showcase, something tangible to demonstrate that representative government could function in an enlightened, progressive way. Thus Governor James Whitcomb found receptive majorities in both houses when he sought schools for the handicapped and an asylum for the insane. While both political parties supported Whitcomb's proposals, Democrats controlled the General Assembly and garnered the major credit. Within three years a school for the deaf, a school for the blind, and an asylum for the insane were authorized. Soon both houses had standing committees on benevolence as the state's system of public charities got underway.[148]

The enthusiasm of legislators for beneficence knew no bounds. By the late 1840s committees from both houses visited the institutions annually, usually on Christmas Day, and without exception committee members were delighted with what they found. For example, in 1848 Representative Martin L. Bundy noted that the state hospital housed thirty-seven mental patients whose "unfortunate condition of mind" had many causes including "unrequited love, [and] failure in business." Each of these patients received "excellent" care according to Bundy. As for the schools, the quality of education was shown by a blind student who read Scriptures "by means of *raised letters*, giving chapter and verse with the accuracy of a Clergyman."[149] In 1850 a committee of senators was so taken with the institutions that it turned to the New Testament for a parallel to the philanthropic miracles wrought by legislative hands: "Verily the deaf are made to hear, the

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[145] For Bales' role in supporting state construction of benevolent institutions, see J. Wesley Whicker, "Dr. John Evans," *ibid.*, 19 (1923), 226-40.

[146] *Senate Journal*, 1842-43, pp. 184-85.

[147] *Laws* (local), 1842-43, pp. 188-89.

[148] For the deaf school act, *Laws* (general), 1843-44, pp. 36-37; for the insane asylum act, *ibid.*, 1845-46, pp. 116-18; for the blind school act, *ibid.*, 1846-47, pp. 41-43. See also George S. Cottman, "The Founding of the State School for the Blind—A Biography of William H. Churchman," *IMH*, 10 (1914), 77-82. The early development of public charities can be followed in reports of the Senate committee on benevolent institutions. *Senate Journal*, 1843-44, pp. 449-51; *ibid.*, 1844-45, pp. 302-4; *ibid.*, 1845-46, pp. 422-25.

[149] Bundy to New Castle *Indiana Courier*, December 26, 1848, in "Letters of Martin L. Bundy," *IMH*, 22:90-92. Emphasis in original.

dumb to speak, the blind to see, and the raging maniac to resume his reason."[150]

Sumptuary laws were almost as important objects of legislative attention as taxation and beneficence. "An Act to prevent certain immoral practices," passed in 1817, illustrated the propensity of legislators to regulate nearly every aspect of human behavior. The act grew out of a territorial law to prevent "Vice and Immorality," but was cast in new terms that left drunkenness, gambling, cock fighting, and horse racing to separate legislation. The act upheld the Sabbath by providing fines for anyone convicted of sporting, rioting, quarreling, hunting, fishing, shooting, or performing common labor on Sundays. It also banned the sale of liquor on Sundays (except to travelers) and forbade puppet shows, wire dancing (acrobatics), and tumbling every day of the week. Shooting a gun along or across a highway or on the streets of a village or town was likewise forbidden, as was cursing, damning, and profanely swearing "by the name of God, Jesus Christ or the Holy Ghost."[151] This sort of legislation continued to pass throughout the pioneer period, although in 1849 the Senate did postpone indefinitely "A bill for the better observance of the Sabbath."[152]

One of the first acts passed by the 1st General Assembly stipulated that territorial laws remained in force. At the same time both houses approved committees to "reduce into one code all the laws which may be in force at the end of this present session."[153] The task proved too complex and time consuming for the General Assembly alone, however, and the best the legislature could accomplish was a piecemeal revision in 1818. This revision codified those acts and parts of acts relating to crime and punishment, defined some forty-five misdemeanors and felonies, and spelled out the punishments and penalties for each.[154] It took another six years before Governor William Hendricks, with the help of Supreme Court Judges Jesse L. Holman and James Scott, presented a revised code that was a model of how revision should be done. The Hendricks code brought together all statutes on the same subject, frequently combining acts from several sessions into one. For example, all laws regarding county formation were reduced to one act spelling out boundaries. The large mass of private acts, dealing with such things as the incorporation of towns or bridge companies, was reprinted only by title.[155] The revised laws were divided into separate schedules for each house to facilitate consideration before the legislature adopted the entire code.[156]

Most revisions did not progress as smoothly as the work of 1824. In 1830-1831, revision became entangled in the legislature's feud with Governor James Brown Ray. Although a joint committee submitted a revised code that was adopted

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[150] *Senate Journal*, 1849-50, pp. 687-89.

[151] *Laws*, 1816-17, pp. 165-68. An amendment to this act in 1821 made it a crime to sell or otherwise dispose of spirituous liquors in the vicinity of religious societies. *Ibid.*, 1820-21, pp. 32-33.

[152] *Senate Journal*, 1848-49, p. 295.

[153] *Ibid.*, 1816-17, pp. 28-29, 32.

[154] *Laws*, 1817-18, pp. 75-97.

[155] For Hendricks' presentation, see *Senate Journal*, 1823-24, pp. 18-22. See also *Laws* (revised), 1823-24, pp. 92-109, 300-9.

[156] For the list of bills considered by each house, *Senate Journal*, 1823-24, pp. 34-36.

before adjournment, it proved hastily drawn and incomplete.[157] Similar attempts by the General Assembly in 1835 and 1838 were also unsuccessful. In fact, during the 1837-1838 session members usually sat for only the first half of each day in order that a joint committee on code revision might meet each afternoon. This left a majority of lawmakers free "to drink grog, talk politics, and take a game of [e]uchre" while a few revised the state code.[158] In 1839 the lawmakers called on the judiciary to help. A joint resolution requested the Indiana Supreme Court to revise the statutes. The judges presented their response at the 1840-1841 session: "Since the Legislature honored us with the appointment . . . we have not been able to commence the revision, and . . . we have no hope that it will be in our power, within any reasonable time, to prepare it."[159] The judges simply did not have time to fit code revision into the already crowded agenda of the court.

Stymied by the judicial refusal, the General Assembly once again turned to the executive branch to get the job done. An act of 1841 authorized Governor Samuel Bigger to prepare a revision as soon as possible, but no later than December, 1842.[160] When Bigger found the undertaking "most arduous and difficult" and asked for assistance, the legislature provided that state Treasurer George H. Dunn, a former representative, help the governor.[161] With Dunn's assistance, Bigger completed his code by December, 1843. Upon its presentation to the legislature, Senator John Ewing proclaimed it "the best consolidation of . . . statutes and common law decisions, ever presented to the people of this State." While the revision may not have raised the profession of law in Indiana "from a deceitful art to an enlightened science," as Senator Ewing claimed, it was a competent job and "stands as [Bigger's] one concrete contribution to Indiana's heritage."[162]

Private Legislation, Divorce, and Impeachment

The General Assembly was criticized most often for the time and attention it devoted to private, or special, legislation. Such acts sometimes dealt with the disposition of estates or the sale of lands belonging to minors or legally disabled persons. Private bills granted special rights to build a grist mill, or a bridge across a river, or to operate a ferry. A newspaper at Madison in 1832 complained that "there has been money enough spent legislating on improper subjects in the different legislatures of Indiana, to have made a Rail Road from Madison to Indianapolis. And notwithstanding, our money is gone, and 'no Rail Road made yet.'"[163] The *Indiana State Sentinel* estimated that over 600 bills passed at the 1847-1848 session.

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[157] For the difficulties with Governor Ray, *Senate Journal*, 1830-31, pp. 63-64; for the difficulties with revision, Vincennes *Western Sun*, January 1, 1831.

[158] Brookville *Indiana American*, January 19, 1838.

[159] *Senate Journal*, 1840-41, p. 91.

[160] *Laws* (general), 1840-41, p. 150.

[161] *Senate Journal*, 1841-42, pp. 115-16; *Laws* (general), 1841-42, p. 148.

[162] Circular from John Ewing, Vincennes *Western Sun*, March 4, 1843; Gayle Thornbrough (ed.), *Messages and Papers Relating to the Administration of Samuel Bigger, Governor of Indiana, 1840-1843* (Indianapolis, 1964), 8.

[163] Madison *Indiana Republican*, January 12, 1832.

"In all this *mass* of *trash*," the *Sentinel* concluded, "there were probably not a dozen [laws] to interest the whole people as a State."[164]

Legislative divorce was the type of private legislation that caused the greatest problem and consumed the most time. Before midcentury it was possible in most states to obtain a divorce through either legislative or judicial action. A special act, called a bill of divorcement, could dissolve a marriage. An index of Indiana laws prepared in 1921 reported a total of 104 legislative divorces between 1816 and 1846, with forty-one of them occurring among the local acts of 1846. But this total did not include the hundreds of petitions that were introduced and turned down, sometimes after heated debate and by the narrowest margin. Because divorce became such a burdensome interference with the more important business of a legislature, many states prohibited legislative divorce absolutely. Tennessee appears to have been the first, doing so in 1834. Indiana did not follow suit until the Constitution of 1851 forbade the procedure.[165]

When the first divorce petition was presented to the House in 1816, Williamson Dunn of Jefferson County moved successfully to throw it under the table. A similar petition occasioned the first roll call in the Senate when that body voted 9 to 1 to postpone consideration of the case after third reading.[166] There was sufficient time wasted in the early sessions that "An Act to regulate divorces" in 1818 invested circuit courts with jurisdiction in an attempt to remove the procedure from the legislature.[167] The judiciary did not provide the hoped for relief, however, because legislative divorce was more comfortable and less expensive for the litigants than going to court. In the General Assembly the parties need not suffer the embarrassment of examination and cross-examination. Also, witnesses were not subpoenaed so court costs and lawyer fees were considerably less than those entailed by a judicial proceeding.[168] Since only a petition with supporting affidavits was needed, the number of legislative divorces increased from year to year.[169] Sometimes

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[164] Indianapolis *Indiana State Sentinel*, March 15, 1848, emphasis in original. This newspaper was not far off in its estimates. Ninety-one of 578 bills passed were general laws, 487 were private or special acts. It was not beyond the realm of possibility, according to the paper, that if "an old lady in some dog-fennel town" wanted an alley vacated so that she could have room for another onion bed, a bill to accommodate her might pass.

[165] George Pence, "Index of Indiana Laws," unpaginated typescript, 1921, Indiana Division, ISL; Richard Wires, *The Divorce Issue and Reform in Nineteenth-Century Indiana* (Muncie, Ind., 1967), 2-5, 10-12, 15. Although Wires' book deals mostly with the period after 1852, the pages cited deal with divorce during the pioneer period. For the experience of other states with divorce before 1851, see Robert Luce, *Legislative Problems: Development, Status, and Trend of the Treatment and Exercise of Lawmaking Powers* (Boston and New York, 1935), 552.

[166] *House Journal*, 1816-17, p. 20; *Senate Journal*, 1816-17, pp. 16-17.

[167] *Laws*, 1817-18, pp. 226-29.

[168] There is no doubt that divorce was cheaper in the legislature than it was in the courts. A House committee stated this explicitly in 1833 when reporting favorably for a woman deserted by her husband: "the petitioner is in very limited circumstances, so that the expense of procuring a divorce in the ordinary mode would be oppressive to her." Report on petition of Ann Smith, *House Journal*, 1832-33, pp. 534-35.

[169] For an indication of the amount of time spent on divorce petitions, see 16 to 11 vote on bill dissolving one marriage and 10 to 16 defeat of a bill to dissolve another, *ibid.*, 1818-19, pp. 103,

the legislature even assessed blame. For example, in 1820 an act passed the Senate 6 to 5 on the tie-breaking vote of the lieutenant governor. The preamble stated: "Whereas sufficient evidence has been produced . . . that Jane Reed . . . has abandoned her husband . . . and otherwise acted . . . in such manner as is unbecoming a prudent and virtuous wife . . . ."[170] Such judgments usually were not made if the husband were at fault.

There were several attempts in the 1820s to decrease the number of divorces granted by the General Assembly. In 1822 the House passed a bill requiring notification of both parties before a divorce petition could be considered, but the Senate postponed the measure indefinitely.[171] Representative Copeland P. J. Arion sought an economic solution with a controversial bill that would have taxed unmarried males above the age of twenty-five years $2 annually "and persons who have been divorced, and not having the charge of a family, be deemed bachelors." Arion's bill passed a first reading before dropping from sight.[172] Some years the lawmakers simply refused to grant divorces. In 1823, when the House defeated at least nineteen divorce petitions without debate, a report admitted one petitioner was entitled to a divorce but "where the courts possess the power to relieve, it is impolitic for the Legislature to interfere."[173]

Impolitic or not, the legislature continued to grant divorces. In fact, one publication in 1849 stated that divorce bills "elected Senators of the United States, formed new counties, and decided much of the important legislation of the State . . . ." All of which proved, said the *Indiana Gazetteer*, that *ex parte* proceedings in private legislation were absurd. The *Gazetteer* related how one senator submitted a petition for divorce on the basis that the wife had borne a colored child. As the senator stated that there was no doubt of the fact, a bill granting the divorce passed to third reading without objection. "Before its final passage, however, the Senator rose and said that there was another fact not yet stated, which possibly ought to have some influence, and this was, that *both husband and wife were colored persons.*"[174]

Senator William H. Stockwell, a Democrat from Evansville, indicated that by 1846 the number of divorce petitions had reached floodtide:

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119. See also *ibid.*, 1821-22, Harnis divorce, 8, 74; Blue divorce, 55, 89; Beeman divorce, 72, 295-96; Sellers divorce, 96; Powell and McCutcheon divorces, 102-3; and Campbell and Collett divorces, 113, 114, 119. By 1846 the number of signatures and supporting affidavits sometimes reached surprising proportions. For example, see "petition of Matilda Knight and one hundred and five other citizens of Clay county, praying that said Matilda may be divorced from her husband, Samuel Knight," in *Senate Journal*, 1845-46, p. 402.

[170] *Senate Journal*, 1819-20, p. 164; *Laws*, 1819-20, pp. 62-63.

[171] *House Journal*, 1821-22, p. 104; *Senate Journal*, 1821-22, p. 254.

[172] *House Journal*, 1821-22, p. 91. Arion always voted against divorce bills. See roll calls, *ibid.*, 74, 89, 119-20.

[173] *Ibid.*, 1822-23, p. 270.

[174] E. Chamberlain, *Indiana Gazetteer* (Indianapolis, 1849), 123. Emphasis in original.

Petitions for divorce are crowding in very rapidly, & remind one of a pungent sarcasm I have somewhere seen representing marriage to be "like flies against a window, those on the outside are butting their heads to get in, & those on the inside are butting their heads to get out." Whether many of the applicants will get out this winter by Legislative enactments is a questionable matter, as the House has passed a joint resolution, declaring it unconstitutional for the legislature to interfere in cases of divorce at all.[175]

In the Senate divorce petitions were handled first by the judiciary committee. By the 1840s this committee's reports indicated growing doubt about the constitutionality of legislative divorce and growing discontent with the volume of business. One argument heard with increasing frequency was that divorces by legislative enactment violated the federal and state constitutions because those documents clearly prohibited legislatures from impairing the validity of contracts.[176] At the same time moralists like Representative George Washington Julian denounced what they considered a cavalier attitude toward marriage and the family: "the institution of marriage is desecrated and scoffed at, by a set of unreflecting and unconscientious politicians."[177] In response to growing sentiment, the House passed a resolution in 1847 "That the General Assembly of this State has not the constitutional power to pass special acts granting divorces." The resolution failed in the Senate where opponents argued that the courts, not the legislature, should determine questions of constitutionality. Also, if legislative divorce were unconstitutional, what was the status of divorces previously granted? If they were unconstitutional, were the partners in a second marriage bigamous and the children illegitimate?[178]

Such questions could not be answered by any legislative process; so the granting of divorces continued unabated until the adoption of the 1851 Constitution. At the 1848-1849 session, however, Senator George Evans asked for and obtained leave to offer the last word on legislative divorce in Indiana:

Resolved, That the committee on the judiciary be instructed to enquire into the expediency of so changing the law, both civil and ecclesiastical, as to make the marriage covenant to extend no longer than during the consent of the parties, and that they may abandon each other at pleasure.

Although Evans' resolution was adopted by the Senate, it failed in the House.[179]

Between 1819 and 1836 the removal of errant officials consumed almost as much legislative time as private bills. The Constitution empowered the legislature to remove the governor or any other civil officer upon impeachment and conviction for treason, bribery, or high crimes and misdemeanors. The House alone might

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[175] Letter dated December 18, 1846, from Stockwell, Evansville *Journal*, December 31, 1846.

[176] *Senate Journal*, 1842-43, p. 515; *ibid.*, 1846-47, p. 91. A sense of the number and constancy of divorce petitions can be gleaned from the reports of the judiciary committee. *Ibid.*, 1841-42, pp. 250-51; *ibid.*, 1842-43, pp. 510-16; *ibid.*, 1846-47, pp. 91-93.

[177] Julian to Indianapolis *Indiana State Journal*, December 23, 1845, cited in Patrick W. Riddleberger, *George Washington Julian: Radical Republican* (Indianapolis, 1966), 28-29.

[178] *House Journal*, 1846-47, pp. 38-40; "Legislative Divorces," Cambridge City *Reveille*, reprinted in Indianapolis *Indiana State Sentinel*, January 5, 1847.

[179] *Senate Journal*, 1848-49, pp. 394-95.

impeach, the Senate convict, a majority in each house concurring in each case.[180] Almost all state constitutions in the first half of the nineteenth century provided for impeachment, borrowing from the Constitution of the United States the idea that "high crimes and misdemeanors" were impeachable offenses. Difficulties arose because state legislatures interpreted the phrase to include petty misdemeanors. This was certainly the case in pioneer Indiana where the impeachment process—described later by James Bryce as "an extreme remedy, proper to be applied against an official guilty of political crimes, but ill adapted for the punishment of small transgressions"—became the ordinary means to remove low ranking civil officers. A bill enacted in 1818 encouraged such a development by making maladministration, corruption, habitual intoxication, and "notorious inattention or neglect of duty" impeachable offenses.[181] Armed with this law, the House pursued at least twelve impeachment cases and considered dozens more. The first one involved charges of neglect of duty and intemperance against a clerk of circuit court in Washington County. Although the legislative *Journals* presented no evidence that Bazil Prather was convicted, his case drew the attention of the House at two separate sessions and whetted the appetite of members for impeachment.[182]

Most impeachment cases originated with popular petitions. Each petition was referred either to a select committee (up to 1825) or to the House standing committee on the judiciary (1826 and after). These committees investigated the complaints and reported to the membership, usually meeting as a committee of the whole. If the House decided to impeach, a sergeant-at-arms was appointed, subpoenas were issued, and witnesses interrogated—all with a view to drawing elaborate formal charges. The House inquiry consumed weeks of committee members' time and in the event of a trial, which could last as long as five working days, all legislative business came to a standstill. Except for the proceedings against a circuit court judge in 1836, no impeachment involved a major officeholder. The others revolved around township and county officials, including seven justices of the peace, three clerks of circuit court, and one sheriff.[183]

The disproportion between means and ends when it took weeks of legislative time to convict one sheriff and three justices of the peace led many to question the whole impeachment process. As early as 1826 Senator John Ewing decried the fact that "legislative duties" were interrupted to try county officials whose cases should be transferred to circuit courts. He asked that the judiciary committee inquire into the matter, but his resolution did not result in legislation.[184] Other

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[180] Kettleborough, *Constitution Making in Indiana*, 1:95, 106.

[181] James Bryce, *The American Commonwealth* (2 vols., New York, 1891), 1:208; "An Act directing the mode of proceeding in impeachment," *Laws*, 1817-18, pp. 319-20.

[182] *House Journal*, 1819-20, pp. 96-98, 142-46, 180-83, 185; *ibid.*, 1820-21, pp. 49, 89; *Senate Journal*, 1819-20, pp. 111-12, 119-20, 168. The Senate resolved itself into a court of impeachment but there was no record found of what the Senate did to decide the case. At the 1820-21 session the House took the matter of Prather up again, only to drop it.

[183] "List of Impeachment Cases in Indiana General Assembly," typescript prepared by the Indiana Legislative Reference Bureau, January, 1924, Indiana Division, ISL. This source lists the cases between 1820 and 1835 and gives page references from the *Journals* for each.

[184] *Senate Journal*, 1825-26, p. 137.

moves aimed at either turning minor officials over to courts for discipline or at "expunging" impeachment from the Constitution also failed.[185] Nonetheless, impeachments continued until the 1835-1836 session when the House drew its last articles and the Senate tried its last case of the nineteenth century.[186]

It is not clear why there were no more impeachments under the first Constitution. Obviously, many were unhappy with the time wasted. Another possible reason was discontent with those who sought impeachment to satisfy a personal grudge. The House committee on the judiciary refused to draw articles in 1839 and condemned "the *idea* of persons making the State Legislature a tribunal, at which, and before which they may indulge . . . vindictive feelings common to depraved nature, and disappointed ambition."[187]

Whatever the reason, impeachment ceased to disrupt the Indiana General Assembly. But the legislature's unhappy experience was not forgotten. It was proposed at the second Constitutional Convention to keep misdemeanors as an impeachable offense. Daniel Kelso, who had served in both houses under the first Constitution, argued against the inclusion: "I cannot imagine . . . that a State officer should be removed from his office for shooting a squirrel on the Sabbath; yet that is a misdemeanor."[188] Kelso and those of like mind carried the day as the term "misdemeanor" was dropped from the impeachment provisions of the 1851 Constitution. The document provided that state officials could be removed by a joint resolution of the General Assembly as well as by impeachment and conviction. In either case, two thirds of each house, not a simple majority, must approve. Township and county officials could also be removed under the second Constitution, but "in such manner as may be prescribed by law."[189]

Mistakes and shortcomings threatened to engulf the General Assembly in the 1840s. The collapse of the internal improvements system nearly brought bankruptcy to the state early in the decade. The failure to enact a tax law that would generate sufficent revenue did not help. By the end of the decade the lawmakers' penchant for special, or private, bills endangered the entire legislative process. Governor James Whitcomb estimated in 1848 that private acts had increased more than 350 per cent since he took office in 1843.[190] Such an increase would mean that more than half of the time at the 1847-1848 session was given over to private bills. Clearly, unless some long-delayed reforms were implemented, representative government in Indiana might fail.

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[185] *Ibid.*, 1829-30, pp. 136-37; *ibid.*, 1830-31, p. 435; *ibid.*, 1831-32, pp. 146-48; *House Journal*, 1825-26, pp. 307, 308; *ibid.*, 1829-30, pp. 157, 168, 169, 421.

[186] Record of trial of Judge Gustavus A. Everts, *Senate Journal*, 1835-36, pp. 679-87.

[187] Report of judicial committee on petition for inquiry into the conduct of Judge Elisha Embree, *House Journal*, 1838-39, p. 186, emphasis in original. At the same session the Senate rejected a petition for impeachment partially on grounds that the petitioner was motivated by vindictiveness. *Senate Journal*, 1838-39, pp. 344-46, 351-53.

[188] *Report of the Debates and Proceedings of the Convention for the Revision of the Constitution of the State of Indiana* (2 vols., Indianapolis, 1850), 2:1936-37.

[189] Kettleborough, *Constitution Making in Indiana*, 1:337.

[190] *Senate Journal*, 1848-49, pp. 20-21.

The work of reforming the General Assembly through the instrumentality of a new constitution began on October 7, 1850. The legislature had initiated the process with an act in January, 1849, that put the question of a convention to the people.[191] Voters approved the step overwhelmingly and elected delegates to the convention in 1850. There seems little doubt that legislative shortcomings were a major reason for calling the convention. At least there was almost unanimous agreement by surviving delegates in 1885 that state debt, private legislation, and the necessity to reform the state code made a new constitution mandatory.[192] The convention met from October 7, 1850, until February 10, 1851. When it finished its work, the 36th General Assembly, convening in December, 1851, faced a monumental task: "The whole temple of State government from spire to foundation stone had to be taken down, remodeled and rebuilt so as to conform to the new constitution and the progress and improvements of the age."[193]

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[191] *Laws*, 1848-49, pp. 36-37. There had been four previous referenda on the question of a constitutional convention. In 1823, 1828, and 1840 voters rejected calling a convention. In 1846 a small majority favored a convention, but less than half of the people who voted for governor voted on the question of a convention. For a summary of referenda efforts, see Kettleborough, *Constitution Making in Indiana*, 1:137-217.

[192] "The First Reunion of the Surviving Members of Indiana's Last Constitutional Convention," and "Early Lawmakers—Reunion of the Surviving Members of the Legislature of 1851 and Previous Legislatures," Indianapolis *Sentinel*, October 6, 7, 1885.

[193] Remarks of William H. English, "Early Lawmakers," *ibid.*, October 7, 1885.

Chapter 4
The Legislators

Sixteen states constituted the American Union when Indiana Territory was created in 1800. Fifteen more had been admitted by 1850 when the pioneer era ended for Indiana with the convening of the second constitutional convention. These thirty-one states were similar in that each had popularly elected legislatures. In 1816 Indiana became the nineteenth state and its Constitution mandated annual sessions for the General Assembly. The raw data show that 1,513 pioneer legislators helped pass the laws during the thirty-five years under this Constitution. One thousand two hundred ninety-nine served in only one house; 194 individuals moved up to the Senate after service in the House; and sixty-eight men moved to the House after initial service in the Senate. Forty-eight members moved from one house to another and back again. One thousand three hundred ninety-seven separate individuals served as representatives while 330 were senators.[1]

The country of birth is known for all but forty-eight of these pioneers. At least thirty-eight were foreign born: twenty-five in Ireland, seven in Scotland, four in Canada, and one each in England and Switzerland. Another, Senator Charles W. Cathcart, was born on the island of Madeira where his father was United States consul. All of the rest were born in the United States, coming from twenty-three states and the District of Columbia. Three states contributed 45.5 per cent of the total, with 277 coming from Kentucky, 229 from Virginia, and 183 from Pennsylvania. Seven hundred seventy-one of the pioneer legislators were born in states that allowed slavery (including the District of Columbia); 655 (including ninety-six New Englanders) came from free states. Those who came from free states also included 101 native Hoosiers, with Representative Benjamin V. Beckes, born at Vincennes in 1786 and elected from Knox County in 1821, being the first. (See Appendix A, Table 4.)

The average age for a representative was 38.5 years; for a senator almost forty-two years. The oldest lawmaker was Representative Robert McIntyre, who was seventy when he served at the 1836-1837 session. Dennis Pennington, age sixty-eight during the 1844-1845 session, was the oldest senator. Five senators began their service at age twenty-five, the constitutional minimum.

Seven representatives began their service at age twenty-one, the minimum age for the House. There was one, however, who served in the House at age twenty. Thomas D. Walpole was born in Zanesville, Ohio, on March 16, 1816.[2] Walpole's family moved to Indiana in 1822 and about 1833 young Thomas settled

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[1] Unless otherwise specified, the information in this section is drawn from quantification of the data in *A Biographical Directory of the Indiana General Assembly* (2 vols., Indianapolis, 1980, 1984), Vol. 1, *1816-1899*.

[2] U.S. Manuscript Census, 1850, Hancock County, Indiana (microfilm), Genealogy Division, Indiana State Library, Indianapolis; *ibid.*, 1860; sketch by Luke Walpole in Walpole file, English Legislator Collection, Indiana Historical Society Library, Indianapolis.

at Greenfield. He was admitted to the Hancock County bar in February, 1834, when he was only seventeen years old. In 1835, at age nineteen, Thomas was disbarred.[3] The following year he was readmitted to the bar and elected to the 21st General Assembly, which met from December 5, 1836, to February 6, 1837. Five weeks after the session ended, Walpole turned twenty-one. There is no doubt that he had been ineligible to serve since "no person shall be a Representative, unless he shall have attained the age of twenty-one years . . . ."[4] Apparently the issue of age was never raised as Walpole served four additional terms in the House plus six years in the Senate. Ever brash and audacious, he was involved in several verbal and physical confrontations with fellow legislators. He also "figured in a large number of lawsuits . . . frequently appearing as plaintiff, but more often as defendant . . . ."[5]

Dennis Pennington was the nearest thing to a career legislator or elder statesman. He began his public life in 1810 and, after five years service in the territorial legislature, was elected a delegate to the Constitutional Convention of 1816. After statehood he served an additional eighteen years in the General Assembly, a tenure that embraced more than half of the sessions between 1816 and 1850.[6] John H. B. Nowland remembered "Uncle Dennis," a frequent boarder at the Nowland household in Indianapolis, as "a man of great physical ability . . . [whose] language was not of the most classic kind." Nowland added that Pennington lacked formal education but had "good common sense, just such a one as was needed in our Legislative Halls at that time."[7] Pennington built two of the most important buildings in Corydon, the courthouse that served as the first State House and the hotel where most lawmakers boarded until 1824. During his last service at the 1845-1846 session, Pennington proudly supported the Butler Bill to pay off the internal improvement bonds. In supporting his stand he reportedly stated: "Mr. Speaker we honestly owe these widows and children—I can never take bread from their mouths—pay them sir—pay them sir—I am for the bill."[8]

Dennis Pennington's longevity is especially impressive. He shared a record thirteen years in the Senate with John Beard of Montgomery County. John Ewing

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[3] Leander J. Monks (ed.), *Courts and Lawyers of Indiana* (3 vols., Indianapolis, 1916), 2:722-23. Monks cited the court record but did not disclose a specific cause for Walpole's disbarment.

[4] Charles Kettleborough, *Constitution Making in Indiana* (3 vols., Indianapolis, 1916, 1930), 1:90.

[5] Monks, *Courts and Lawyers of Indiana*, 2:723. For examples of fights with colleagues, see joint statement by Thomas D. Walpole and David B. Herriman, Indianapolis *Indiana Journal*, February 17, 1843; statement by Benjamin Wolfe, Indianapolis *Indiana State Sentinel*, January 20, 1849.

[6] James G. Read of Daviess and Clark counties also served eighteen years, nine in each house. Pennington deserves seniority, however, because he also served five years in the territorial General Assembly.

[7] John H. B. Nowland to William H. English, October 30, 1890, Pennington file, Legislator, IHSL.

[8] Pennington obituary from unidentified newspaper, *ibid.* See also John W. Ray, "A Recollection of Dennis Pennington," *Indiana Magazine of History*, 3 (1907), 26-28.

of Knox, Amaziah Morgan of Rush, and William Graham of Jackson each served twelve years. But the average tenure of senators was only 3.4 years because three out of four (247 out of 330) served one term or less. In the House, to which Pennington was elected five times, the longest service was nine years. The average tenure, however, was only 1.8 years. Seven hundred eighty-nine men (56.5 per cent) served only one session, and over 90 per cent of the representatives served three years or less. In fact, more than half of the members of the House were freshmen in twenty of the thirty-five sessions of the pioneer period. The least stability was in the 1840s when freshmen constituted a majority during ten of the last twelve sessions. During that decade new members numbered over 60 per cent six times, including 71 per cent at the 1849-1850 session. By contrast, the Senate only reached a 50 per cent level of new members at the 4th session (1819-1820), when five of the ten senators were freshmen. Because of the turnover there was a lack of continuity from session to session and the press frequently criticized legislators who lacked legislative experience.[9] For the most part, however, there were no other kind. (See Appendix A, Tables 5-6.)

Since lawmaking only took two months a year on the average, most lawmakers had ample time to earn a living. The principal occupation of all but twenty of the pioneer legislators is known. (See Appendix A, Table 7.) Eight hundred ten men (53.4 per cent) were farmers like the vast majority of their compatriots. Next to farming, law was the most prevalent occupation with 337 individuals (22 per cent) engaged as practicing attorneys. Other occupations represented by more than 100 legislators included 315 merchants (a category that embraced everything from small shopkeepers to wholesalers) and 145 physicians. There were 142 artisan-mechanics, a category that included painters, carpenters, masons, shoemakers, blacksmiths, coopers, millwrights, tailors, and plasterers. One hundred seventy-seven legislators (better than one in ten) taught school for a time, including twelve who were college professors. The vast majority of these, however, taught long before their legislative service. Teaching was frequently their first job, a means of livelihood while they studied law or medicine.[10] Taken as a whole, practically every occupation was represented in the General Assembly prior to 1851. There were seventy-two millers, sixty clergymen, forty-one newspaper editors, and ten newspaper publishers. There also were forty-three banker-

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[9] For typical criticism of a legislature "composed principally of new members," see Madison *Republican and Banner*, December 26, 1833. Other states also experienced high rates of turnover. In New York, for example, the percentage of first term members in the lower house ranged from 54.6 per cent for the years 1808 to 1817 to 83.3 per cent between 1848 and 1857. In New Jersey, 41.5 per cent of those who sat between 1829 and 1844 served for only one year, and 38.5 per cent served only two years. L. Ray Gunn, "The New York State Legislature, A Developmental Perspective: 1777-1846," *Social Science History*, 4 (1980), 277-81.

[10] The case of John P. Usher (House, 1850-51) was typical. He attended a one-room common school in Madison County, New York, and learned enough to qualify as a teacher while he read law. Elmo R. Richardson and Alan W. Farley, *John Palmer Usher: Lincoln's Secretary of the Interior* (Lawrence, Kan., 1960), 2.

financiers, thirty tavern owners or innkeepers, and a smattering of surveyors, contractors, engineers, and ferry operators.[11]

Although no professional soldiers served, a large number of captains, majors, colonels, and generals did. The state Constitution obliged all able-bodied men between the ages of eighteen and forty-five to serve in the militia, excepting blacks, mulattoes, and Indians. Conscientious objectors were allowed to pay an annual fine in lieu of service. Almost without exception the soldier-lawmakers earned their rank in the territorial or state militia. At least 400 of the pioneer members served, or 26.4 per cent of the total number elected to the General Assembly. In the first years after statehood, however, the percentage was much higher. For example, 40 per cent of the House and 45 per cent of the Senate served in the militia between 1816 and 1829. This percentage dropped to 34 per cent and 39 per cent respectively for the House and Senate in the 1830s as the threat of Indian attacks diminished. Then, in the 1840s the number of militiamen-legislators fell even further, to 20 per cent in the House and 24.9 per cent in the Senate. "By 1850 the militia was practically nonexistent except for the thousands of commissions issued, mainly to confer honorary military titles."[12] A total of 323 pioneer lawmakers (21.4 per cent) served on active duty during wartime. Specifically, five served in the American Revolution, 137 in the War of 1812, twenty-nine in the Black Hawk-Indian wars, sixty in the Mexican War, and ninety-one in the Civil War. Thirteen men served in both the Mexican and Civil wars. (See Appendix A, Table 8.)

As a group, legislators were apparently better educated than their fellow citizens. A minimum of 551 enjoyed some kind of formal education, including 308 with some equivalency of elementary or secondary education (common, country, district, academy, or seminary schools). Another 243 studied law or medicine, either in schools or with preceptors, but no evidence of elementary school education was found for them. Of these, fourteen attended law school and forty-four attended medical school. Ninety-eight lawmakers attended a recognized college or university to study another discipline. Thirty-five received their higher education in Indiana, including twenty who attended Indiana University,

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[11] An entry in the journal of a trip to Indianapolis in 1827 illustrated the diversity of work in the early nineteenth century and the difficulty of determining a man's primary occupation: "The County Clerk is Homer Johnson. He is also Major-General of Militia, tavern keeper, schoolmaster, surveyor, doctor & singing master." See Dr. Samuel Judah's Journal, November 14, 1827, in Judah Papers, Lilly Library, Indiana University, Bloomington. It is obvious that many people engaged in more than one occupation simultaneously. Also, the dates that a man held a specific occupation could not always be determined. While every effort was made to discover the primary occupation during the time a man served in the General Assembly, this was often impossible. But it was possible to select two occupations that were most probably a man's chief means of livelihood. As a result, 2,305 occupations were assigned for the 1,513 legislators who served in the pioneer period.

[12] Leonard E. Webster, "A Military History of the Indiana National Guard, 1816-1966" ([Indianapolis], 1966), 9, bound typescript in Indiana Division, Indiana State Library, Indianapolis. See also *A History of the National Guard of Indiana* (Indianapolis, 1901), 68-84. Both studies confirm that the first twelve years of statehood were the years of greatest strength and importance for the militia.

six who attended Indiana Asbury College (DePauw University), six who attended Hanover College, and three who attended Wabash College. One legislator, John S. Reid (Senate, 1849-1851), attended Oxford University in England and another, William McKee Dunn (House, 1848-1849), was elected to Phi Beta Kappa at Yale University.[13] At least 180 legislators showed some educational service: fourteen were school examiners; twenty-four were school commissioners; thirty-three were school trustees; and thirty-one were county seminary trustees. There also were five district superintendents, four principals, four directors or trustees of asylums, and three state superintendents of schools. Sixty-two lawmakers later served Indiana colleges and universities as trustees.

Nine hundred sixty-eight pioneer legislators served in local government on the township, city, or county level, with a majority probably using local office as a steppingstone to the General Assembly.[14] (See Appendix A, Table 11.) One hundred twelve men served at some time in their careers as district judges or prosecuting attorneys. One hundred sixty-eight served in state administrative positions such as secretary of state, state treasurer, or auditor, or as a canal commissioner, officer of the State Bank, or trustee of a state institution. One hundred forty-two served in federal positions at the state level, such as United States marshal, Indian agent, or in a United States land office.[15] Sixteen men advanced from the legislature to the state Supreme Court; five legislators served later as federal judges. Thirteen pioneer legislators later became governors of Indiana. These included eight of the pioneer governors and five men—Ashbel P. Willard, Henry S. Lane, Conrad Baker, Thomas A. Hendricks, and James D. Williams—who served as governors under the second Constitution. There were thirteen who advanced to the United States Senate from Indiana, including four—James Whitcomb, Joseph A. Wright, Henry S. Lane, and Thomas A. Hendricks—who went to the Senate after they had been elected governor. Two men, Robert Hanna, Jr., and Ethan Allen Brown, served in the United States Senate before they were elected to the Indiana General Assembly.[16] Another, Thomas Fitzgerald, was elected to the United States Senate after he moved to Michigan. Sixty lawmakers later served Hoosiers in the United States House of Representatives, while six served as congressmen from other states or territories after serving in the Indiana General Assembly. Three men, Caleb B. Smith, John

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[13] For the deplorable condition of schools and the consequent high rate of illiteracy in the state at large, see Richard G. Boone, *A History of Education in Indiana* (New York, 1892, reprinted, Indianapolis, 1941), 10-128.

[14] Six hundred eighty-nine lawmakers (45.5 per cent) held a local office before going to the General Assembly; 177 served in a local office after their legislative service; and it is unknown whether another 102 men held local office before or after being in the General Assembly.

[15] The overwhelming majority of those who served in either district judicial, state administrative, or federal offices at the state level, did so after their legislative service.

[16] Robert Hanna, Jr., was appointed to the U.S. Senate in 1831 and did not serve his first term in the General Assembly until the 1832-33 session. Ethan Allen Brown served Ohio as a state Supreme Court judge, governor, and U.S. senator before he moved to Indiana in 1836. Brown won election to the Indiana House in 1841.

P. Usher, and Richard W. Thompson, served later in presidential cabinets.[17]

The political, religious, and fraternal affiliations of pioneer legislators indicate intense loyalty to party, church, and lodge. From 1816 to 1823, of course, there were no party designations. After that, many assemblymen were either pro- or anti-Jackson, although there were no permanent factions until the early 1830s. At least 186 anti-Jacksonians served between 1823 and 1833 while a minimum of 148 pro-Jacksonians served in those same years. In 1834 the opposing factions divided into Whigs and Democrats and a total of 584 Whigs served between 1834 and 1851 while Democrats numbered 597 for the same years. During the years 1830 to 1839 anti-Jacksonians or Whigs controlled both houses six times (1830-1831 and 1834-1835 through 1838-1839); they controlled the Senate as well in the other four sessions. In 1831-1832, the parties were tied in the House; pro-Jacksonians or Democrats controlled the House three times (1832-1833, 1833-1834, and 1839-1840). From 1840 to 1851 Whigs controlled both houses only at the 1840-1841 session; they controlled only the Senate in 1841-1842 and 1842-1843, while in 1844-1845, 1845-1846, and 1847-1848 the parties were tied in the Senate. In addition, Whigs controlled the House twice, in 1844-1845 and 1846-1847. Democrats controlled both houses four times (1843-1844 and 1848 through 1850-1851); they controlled only the Senate in 1846-1847 and only the House three times (1841-1842, 1842-1843, and 1845-1846). (See Appendix A, Table 12.)

Pioneer legislators were politically stable; only 10.8 per cent changed party affiliation during their lifetime. Twenty-four men changed from pro-Jackson to Whig or from anti-Jackson to Democrat.[18] Otherwise, those who designated themselves as pro- or anti-Jackson became Democrats or Whigs respectively. Fifty legislators switched from the Whig to the Democratic party prior to 1852 while fourteen switched from the Democratic to the Whig party. These were the only changes that occurred during the pioneer period. In the 1850s, however, seventy-one lawmakers who had designated themselves Democrats during the 1840s became Republicans while four Whigs of the 1840s switched to the Democratic party. Otherwise, there were no changes of party affiliation discovered for any lawmaker who served during the pioneer period.

Religious data for the pioneers are less precise than political data. It is known, however, that a majority (974) professed religious belief although 114 of those did not affiliate with any church. Daniel C. Lane was the only one who could be positively identified as a non-believer.[19] The religious affiliations or convictions for 538 others were not determined. The four denominations with the largest representations were Methodists (266), Presbyterians (191), Baptists (111), and Disciples of Christ (97). Other denominations with sizeable representations included Quakers (56), Universalists (44), and Episcopalians (37). In addition, there were scatterings of United Brethren, Roman Catholics, Congre-

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[17] Smith and Usher served President Abraham Lincoln as secretaries of the interior; Thompson served President Rutherford B. Hayes as secretary of the navy.

[18] Progression from anti-Jackson to Whig to Republican and from pro-Jackson to Democrat are not considered party changes.

[19] Lane file, Legislator, IHSL.

gationalists, Lutherans, Unitarians, and lesser denominations. (See Appendix A, Table 13.)

Those who serve in public life frequently seek the camaraderie of fraternalism and the satisfactions of benevolence. In pioneer Indiana that meant there were many Freemasons in the General Assembly since in the beginning Freemasonry was the only fraternal and benevolent society in the state. Specifically, 257 pioneer legislators were positively identified as being Freemasons. Since determination of Masonic membership is not always possible because the order is a secret society, the actual number of Masons in the General Assembly was possibly much larger. At least ten of the twenty-seven speakers of the House belonged to the order and they presided at sixteen of the thirty-five sessions. The order later claimed in a eulogy of an early leader that Masons came to Indiana long before it entered the Union and the efforts and dedication of these men "had much to do with the destiny of the State."[20] There is no doubt that Masonry had an impact during the state's formative years.

The first lodge in Indiana was established at Vincennes in 1806. It drew members largely from the frontier army posted there. As a result, a majority of those who fought and died at Tippecanoe in 1811 were Freemasons. One of the survivors, John Tipton, devoted much of his energy to fostering a Tippecanoe-Masonic mystique. For example, at Tipton's instigation many of the new state's counties were named for Masons who fought or fell at Tippecanoe. In 1821, while Tipton was a state representative and Grand Master of the state lodge, he discovered that the grave at the battlefield had been opened. He purchased the site in the fall of 1829 and the following spring he invited survivors of the battle to gather at the scene and bury the remains of their fellow soldiers in a common grave.[21] Later, on the twenty-fifth anniversary of the battle, Tipton deeded the site to the state. Although the General Assembly accepted the gift, it took no action on Tipton's suggestion that a suitable monument should be built at state expense.[22] Masonic members of the General Assembly campaigned for over eighty years until the monument became a reality in 1908.

By 1817, in addition to Vincennes, lodges had formed at Lawrenceburg, Vevay, Rising Sun, Madison, Charlestown, Brookville, Salem, and Corydon. When the 2nd General Assembly convened, membership in the nine lodges could not have exceeded 125 men. Among them, however, were the governor, lieutenant governor, secretary of state, state auditor, the speaker and eight members of the House, the secretary of the Senate, two senators, and the state printers.[23]

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[20] Eulogy on Copeland P. J. Arion (House, 1821-22, 1823-24; Senate, 1838-41), undated typescript in Arion file, Centennial History of the Indiana General Assembly, Archives Division, Commission on Public Records, Indiana State Library, Indianapolis.

[21] Nellie Armstrong Robertson and Dorothy Riker (eds.), *The John Tipton Papers* (3 vols., Indianapolis, 1942), 1:275.

[22] *Ibid.*, 3:81, 196. See also *House Journal*, 1833-34, p. 213; *ibid.*, 1834-35, p. 20; *Laws*, 1833-34, pp. 367-68. Tipton paid an architect in Washington, D.C., to sketch a suitable monument, but nothing was done by the General Assembly at the time.

[23] For the beginnings of Freemasonry and the order's influence in early state government, see Dwight L. Smith, *Goodly Heritage: One Hundred Fifty Years of Craft Freemasonry in Indiana* ([Franklin, Ind.], 1968), 1-41.

Thus when Masons decided to form a state lodge they met at Corydon on December 3, 1817. "The time and the place were chosen . . . [because] the men who would have to be counted upon to provide the talent and the leadership . . . were the men who occupied positions of leadership in government."[24]

The interests of the order and its members received legislative attention because of this strength. For example, in 1819 the legislature obliged Grand Master Alexander Buckner and Thomas H. Blake, a leader of the Vincennes lodge, who had fought a duel in violation of state law that barred anyone who engaged in a duel from elected or appointed office.[25] The two politically ambitious Masons applied for relief and the legislature repealed the portion of the law that required attorneys to swear they had never fought a duel.[26] Blake subsequently served several terms in the General Assembly and one term in the United States House. Buckner moved to Missouri where he served as a United States senator.

In 1820 the Grand Lodge petitioned the General Assembly to incorporate Masonic lodges. Grand Master John Tipton steered "An Act for the appointment of Trustees to receive Deeds for Lots or Lands, given or purchased for the use of Schools, Meeting Houses or Masonic Lodges" through the House where it passed unanimously. A roll call was demanded in the Senate and only James Gregory voted against passage. Section 4 of the law provided "That the rights, privileges, benefits and immunities hereby given, granted and extended to congregations and religious societies, are hereby given, granted and extended to the Grand Lodge of Indiana, and to the lodges which now are, or hereafter may be subordinate to said Grand Lodge."[27] Freemasons were the first secular society to receive this privilege.

The numerical strength of Freemasonry in the General Assembly appears to have peaked between 1816 and 1829 when better than 25 per cent of the lawmakers belonged to the order. With the coming of organized anti-Masonry in the late 1820s, the percentage of identifiable Freemasons declined precipitately. Between 1830 and 1851 only about 16 per cent of the lawmakers could be positively identified as Masons. Despite any numerical decline, however, the order remained influential. And its influence was split nearly evenly between the two political parties. Thus thirty-nine Masons who were anti-Jackson served between 1823 and 1833 while thirty-one pro-Jackson Masons served. From 1834 to 1851 there were 100 Masons who were also Democrats in the General Assembly and eighty-six who were also Whigs. In the early 1830s opponents of John Tipton claimed that Masons elected the pro-Jacksonian Tipton to the United States Senate despite the anti-Jacksonian majority in the legislature.[28] In 1845 Senator

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[24] *Ibid.*, 31.

[25] For the duel, Daniel McDonald, *A History of Freemasonry in Indiana from 1806 to 1898* (Indianapolis, 1898), 35.

[26] For the petition for relief, *House Journal*, 1817-18, pp. 15, 44; for the repeal, *ibid.*, 1819-20, pp. 205-6; *Laws*, 1819-20, pp. 24-25.

[27] *House Journal*, 1820-21, pp. 17, 51, 166; *Senate Journal*, 1820-21, p. 143; *Laws* (revised), 1824, pp. 265-67.

[28] See above, pp. 49-50.

Godlove S. Orth stated that the ramifications of Freemasonry "extend to all portions of [the] community . . . ." Orth, a non-Mason who sought the Whig gubernatorial nomination in 1846, wrote to Schuyler Colfax that "inter nos, I fear [Masonic] influence in the nomination. I may be wrong yet still I fear."[29]

Center Lodge No. 23 was formed at Indianapolis in 1822, nearly three years before state government moved there.[30] In 1828 the state lodge held its annual meeting in the new capital city for the first time. After 1832 all annual meetings of the order convened in Indianapolis. By the early 1840s the Grand Lodge decided to build a Masonic Temple as near to the State House as possible. In 1843 the order purchased a lot on the southwest corner of Washington Street and Tennessee (now Capitol) Avenue, cater-corner from the State House. A cornerstone was laid in 1848 and the Temple was sufficiently completed by 1850 that the Constitutional Convention met there while the 35th General Assembly was in session across the street.[31] The Temple was of Grecian Doric design and looked strikingly like the State House except for the absence of a capitol dome. The Masonic building also suffered from many of the same construction defects as the State House and lasted only until 1875.

Typical and Not-So-Typical Legislators

Quantification tells an important part of the story for Indiana's pioneer legislators. But behind the data stand 1,513 flesh and blood human beings. Their prototype was born in Kentucky and got married about the time he moved to Indiana, where he purchased a farm and raised his family. He generally held at least one elected local office before he ran for the legislature, but he was not a perennial office seeker. He usually served only one term in the House and his service constituted the high point of a life that otherwise was quite pedestrian. A seat in the Indiana General Assembly was the highest office he ever held and, most probably, the highest he ever sought. As a good family man, the legislative prototype was a church-going Christian, more frequently than not a Methodist. After his service at the capitol, the prototype returned to farm and family and worked out the rest of his days in relative obscurity.

John W. Graham (House, 1848-1849) personified the prototype. He was born on March 11, 1791, in Nelson County, Kentucky. Graham married Mary Duncan in 1817, two years before he moved to Spencer County, Indiana, and bought a farm. The Grahams raised ten children and sought "harmony and happiness" in all dealings with their neighbors. These neighbors in turn saw Graham as a man "of excellent judgment" whom they elected an associate judge of the circuit court. He filled this post from 1827 to 1839. Throughout life

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[29] Orth to Colfax, November 29, 1845, in J. Herman Shauinger (ed.), "The Letters of Godlove S. Orth, Hoosier Whig," *IMH*, 39 (1943), 373.

[30] Will E. English, *A History of Early Indianapolis Masonry and of Center Lodge* (Indianapolis, 1895), 7-10.

[31] Smith, *Goodly Heritage*, 97-99; *Journal of the Convention of the People of the State of Indiana, to Amend the Constitution* (Indianapolis, 1851), 423-24, 471-75.

Graham was a loyal Whig. In 1848 he defeated Democrat William B. Richardson in a close race for representative from Spencer County. When Graham faced the same opponent for reelection he lost after Richardson successfully contested the result before the House elections committee. Graham never ran for another office. Always "an earnest worker in the cause of Christianity," Graham attended the Methodist church. He served his country in the War of 1812. After his death in Rockport on February 20, 1855, he was remembered as a man "never known to have done a dishonorable act."[32]

Marriage, family, a farm, party loyalty, and one term of service constituted the most common denominators for pioneer legislators. There were many quite remarkable and colorful individuals, however, who departed from the norm in one or several respects. One such was John Finley, the newpaperman who became the state's first poet-legislator. Finley served three terms in the House between 1828 and 1831 and then three terms as the enrolling clerk of the Senate. He held the latter post in 1833 when he published a New Year's Day address in an Indianapolis newspaper that contained a graphic description of Indiana, her people, and the life they lived. It was entitled "The Hoosier's Nest" and began:

> I'm told, in riding somewhere West
> A stranger found a *Hoosier's Nest*—
> In other words a Buckeye cabin,
> Just big enough to hold Queen *Mab* in;
> Its situation, low and airy,
> Was on the borders of a prairie.

This poem, reprinted in newspapers nationwide, made Finley famous and the word Hoosier respectable. Previously it had been a term of derision used mostly to describe an intellectually backward, uncultured people.[33]

Another representative struck by the muse while serving in Indianapolis was a Sullivan County farmer named Samuel Brown. He was strictly an amateur poet who wrote principally to entertain his colleagues. For example, Brown's first offering (probably written for the 1836-1837 session) took the form of a rhymed resolution:

> This house does now beseech
> Those members who design a speech
> To spare the youth, and men of years
> To have some mercy on our ears.[34]

Brown's most rhythmic creation, however, was a poetic plea for permission to leave before adjournment. Early leave was a recurring problem and there were frequent proposals that lawmakers who did not stay until adjournment should

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[32] Graham file, Legislator, IHSL; Dorothy Riker and Gayle Thornbrough (comps.), *Indiana Election Returns, 1816-1851* (Indianapolis, 1960), 340, 342.

[33] For the poem, see Indianapolis *Indiana Journal*, January 1, 1833; for the poem's impact, Finley file, Legislator, IHSL. See also Sarah A. Wrigley, *John Finley* (Indianapolis, 1907), 31-37.

[34] Manuscript dated 1836 and signed "Brown" in John Armstrong Papers, IHSL. A slightly different version was published anonymously in the Indianapolis *Indiana Democrat*, January 9, 1838.

forfeit their per diem.[35] Brown reflected on the problem and also on the loneliness of the legislative life. He then addressed a rhymed request "To the Speaker and each Member of the House of Representatives":

> I do not claim much land or goods—
> A homely cabin in the woods
> Contains my earthly hopes and joys—
> A wife and four fine *Hoosier* boys.
> Though not a stately painted dome,
> An honest, faithful, quiet home:
> That home once more I wish to seek—
> Sir, *please to give me leave next week.*
> Then let false fortune smile or frown,
> You have a friend in
> Samuel Brown.[36]

A third poet-legislator, George W. Cutter, arranged while serving at the 1839-1840 session to publish *Elskwatawa, or the Moving Fires; and Other Poems.* Cutter's volume was over fifty pages long and is said to have been the first book of poetry published in Indiana that is still in existence. It was unrestrainedly sympathetic to the Indians who were depicted as oppressed by faithless, treaty-breaking whites.[37] Cutter created the real sensation of the session, however, when he fell in love with the widowed Frances Denny Drake, a tragedienne appearing at an Indianapolis theater. She had been acting many years and was heralded as "the Star of the West." By 1840 Mrs. Drake was also old enough to be Cutter's "aunt, if not his mother." During her engagement in Indianapolis she boarded at the Washington Hall, where Cutter also stayed. "The billing and cooing of these oddly-mated turtles was endless fun for the other inmates of the hotel."[38] Cutter married Mrs. Drake on January 23 and for the rest of the session every time he rose to speak in the House he was subjected to "knocking, laughing & c." Representative John Eccles told his colleagues that they ought to respect the people Cutter represented even if they could not respect him. "The people of Vigo county, as well as this House, had taken him as he had taken his wife lately, for better or for worse," he added.[39] Cutter left Indiana

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[35] For example, when Lieutenant Governor Jesse Bright could not locate a quorum for business on the last day of the 1843-44 session, he condemned the practice of "signing the accounts of members before the day of adjournment, thereby enabling them to draw their pay and return home before the close of the session." *Senate Journal*, 1843-44, p. 602. In 1847 John Dowling introduced a bill that stipulated any legislator who left before the session officially ended would forfeit one half of his per diem. Dowling's bill failed to survive a first reading. Indianapolis *Indiana State Sentinel*, January 30, 1847.

[36] Manuscript in Armstrong Papers, IHSL. Emphasis in original.

[37] Arthur W. Shumaker, *A History of Indiana Literature* (Indianapolis, 1962), 80-83.

[38] B[erry] R. Sulgrove, *History of Indianapolis and Marion County, Indiana* (Philadelphia, 1884), 257. See also "Frances Ann Denny Drake," in *Dictionary of American Biography* (20 vols., New York, 1928-1937), 5:428-29.

[39] WPA *Marion County Marriages*, Vol. 9, Genealogy Division, ISL; Indianapolis *Indiana Journal*, February 8, 1840.

as soon as the session ended and he never returned. His marriage to Mrs. Drake ended in divorce.[40]

John B. Howe, a wealthy banker who served only at the 1840-1841 session, is best remembered as the man whose bequest endowed Howe Military Academy in LaGrange County. Howe also authored several books on political economy and finance. Unfortunately, his philosophical bent made his prose incomprehensible for ordinary readers. For example, in his last book Howe explained how the metaphysical base of the mathematical development of money made the substitution of indirect for direct barter necessary. He claimed indirect barter could be effected only through an intermediary between the things to be bartered:

> If the third term [the intermediary one] is metaphysically, as well as physically, of the *same kind* with the two other terms, one of which is on either side of it, then the three terms being each geometrical quantities *of the same kind*, the only change effected is that the intervening term *must* be bartered *twice* in order to effect an indirect exchange of the terms on either side of it.[41]

When many readers did not understand the volume, Howe prepared a pamphlet of explanations in which he stated "Any one who is willing to read or even to run over such a book intelligently, is entitled to the thanks of the author."[42]

Due to the brevity of sessions there could be no professional legislators in pioneer Indiana, but there were men who made the legislature their lives. A colorful few even became part of pioneer folklore. Such a man represented Knox County in the Senate for twelve sessions. John Ewing was born in Ireland in 1789 and arrived at Vincennes in 1813. He soon owned a general store and was considered well-to-do. "But he entered politics and gave more attention to that than his business and lost all his property."[43] A congenital office seeker who never married, Ewing saw himself as "destitute of relations or family connexions." He sought popular favor as compensation and said that voters supplied his deficiencies by pointing him along the path of usefulness and fame.[44]

John Ewing's opponents attacked him as a foreign-born, pro-British Federalist the first time he ran for the Senate. He responded with a long, philosophical disquisition on Federalism in the Vincennes *Western Sun*. Ewing lost the election and shortly thereafter someone set fire to his house.[45] When a $500 reward failed to uncover the incendiary Ewing sued his detractors for libel. He was awarded $300 plus costs in 1817 because of the "insinuation" of Federalism into an election in a way that "was defaming."[46] Ewing lost a second race in 1821 before

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[40] Sketch of Cutter by Joseph F. Brown, March 16, 1886, Cutter file, Legislator, IHSL. See also Mary C. Gookins to William H. English, April 20, 1888, *ibid.*

[41] John B. Howe, *The Common Sense, the Mathematics, and the Metaphysics of Money* (Boston, 1881), 228. Emphasis in original.

[42] J[ohn] B. Howe, "A Reply to Criticisms," *ibid.* (revised edition, Boston, 1882), 331.

[43] Sketch of Ewing based on a letter by Henry S. Cauthorn to William H. English, April 27, 1889, in Ewing file, Legislator, IHSL.

[44] Ewing to the voters of Knox County, Vincennes *Western Sun*, August 6, 1842.

[45] For the discourse on Federalism, *ibid.*, August 17, 1816; for the particulars on the fire, *ibid.*, August 24, October 19, 1816.

[46] For two articles and an editorial on the libel case, *ibid.*, July 26, 1817.

winning the Senate seat in 1824. Then, while Ewing sat at Indianapolis, someone apparently set fire to his house again.[47]

Whether John Ewing became a gifted but irascible polemicist because of the firings of his property, or his property was burned because of his polemics, cannot be determined. As early as 1816 the Irishman exhibited a certain and nearly unlimited capacity for invective.[48] After he came to the Senate his fulminations became almost constant. In 1827, when Elihu Stout refused to publish any more of Ewing's "reports from the Senate chamber," the senator started the short-lived Vincennes *Wabash Telegraph*.[49] His attacks on anyone who disagreed with John Ewing were acrid and lengthy. Two columns of vituperation against a political challenger in 1830 were typical. "Who is Wilson Lagow?" Ewing asked. "What service has he performed?" Lagow was a nobody who made some hats, sold some goods, and shaved the people. His supporters were "infidels and pretended saints, pettifoggers, quacks . . . and hypocritical, psalm-chanting intriguers." The people were lucky to have a choice. They could ignore Lagow and vote for "an experienced legislator, an elegant and faithful advocate of the people's permanent and paramount interests."[50]

Opponents answered Ewing in kind. When he championed what he termed "the common man" against land speculators along the proposed route of the Wabash and Erie Canal, John Tipton felt constrained to answer. All societies allowed old maids to have cats, parrots, and canaries and old bachelors to have whims, hobbies, and gouty spleens, Tipton said. "And you must, in charity, be allowed yours," Tipton wrote to the senator.[51] Such attacks drove Ewing to further fits of rage and although he was a professed anti-Jacksonian and Whig, his anger knew no partisan bounds. Indeed, one of the state's leading Whigs, Noah Noble, saw Ewing as that "*Irish misanthrope*" about whom "malice and duplicity lurk."[52] The Democratic *State Sentinel* wondered "what sort of people live in Knox county that they should send *such* a representative" to Indianapolis.[53] The *Sentinel* had less doubt, however, about what sort of person John Ewing was. On one occasion it reprinted a report that he was an "old snarling cur"; on another "a buzzing, splenetic and acrimonious demagogue."[54]

Ironically, Ewing nearly met his match in a man who he never faced in an election. Samuel Judah, who represented Knox County for six terms in the

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[47] For Ewing's second defeat, *ibid.*, August 18, 1821; for the second burning of his property, *ibid.*, February 5, March 19, 1825, and Indianapolis *Gazette*, February 8, 1825.

[48] Broadsides signed by John Ewing, May and July, 1816, in Broadside Collection, Indiana Division, ISL.

[49] For examples of Ewing's reports, see Vincennes *Western Sun*, February 26, 1825, December 16, 1826. Ewing published the *Wabash Telegraph* through 1827 and 1828.

[50] *Ibid.*, June 19, July 10, 1830.

[51] Tipton to Ewing, November, 1829, in Robertson and Riker (eds.), *Tipton Papers*, 2:225.

[52] Noble to Samuel Judah, October 24, 1842, typescript in Judah Papers, Lilly Library. Emphasis in original.

[53] Indianapolis *Indiana State Sentinel*, January 10, 1843. Emphasis in original.

[54] Paoli *True American*, December 24, 1842, reprinted *ibid.*, December 31, 1842; *ibid.*, January 3, 1843.

House, was born in New York City in 1798 and graduated in law from Rutgers University. He came to Vincennes in 1818 and was elected to the General Assembly the first time he sought public office. Judah was of Jewish descent, somewhat smaller than average, but handsome, dark complexioned, with piercing black eyes. He was described by a contemporary as "a good debater, a classical scholar . . . a man . . . that will do more good by making officers watchful through a dread of him, than by any bold original measure."[55] Samuel Judah sought favor with the same electorate as John Ewing, a fact that made Ewing wary from the day Judah entered public life.

In 1827 Judah ran for the House, Ewing for the Senate. One week before both men won Judah wrote that his difficulties with Ewing were entirely personal and should have no influence on the election of either man.[56] The difficulties kept Judah so busy defending himself, however, that he waited until after the election to fill the *Western Sun* with his political beliefs and plans. In October, 1827, Judah informed his constituents that he favored public schools and he promised "every exertion to procure . . . a common school fund, for the benefit of the whole state." An unabashed consumer advocate, he denounced "caveat emptor" (let the buyer beware) and called for "caveat venditor" (let the seller beware of what he sells). Judah also endorsed a revised state code.[57] This program won the approval of voters who reelected Judah in 1828 despite John Ewing's effort to "get him out of the way . . . [by] circulating little dirty stories."[58] In 1829 Judah was named United States attorney for Indiana. He was not reelected to the House until 1837, after he switched from the Democratic to the Whig party.

John Ewing was in Congress in 1838 when Samuel Judah steered a bill through the Indiana House that revived the dormant charter of Vincennes University. The bill became law and in effect entitled a non-functioning university to the proceeds due from the sale of land in one of the two townships designated by Congress to support a seminary of learning in Indiana. Judah then prepared a lawsuit to recover the funds for Vincennes University and argued the case successfully all the way to the United States Supreme Court.[59] Ewing became interested in the proceedings after he lost his congressional seat in 1839. The Irishman investigated the claims of Vincennes University and concluded that the school's board of trustees had no rights or authority to exercise the powers and functions it claimed. According to Ewing the board had ceased to exist after 1816 until Judah's sudden resuscitation of it for the private gain of himself and

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[55] See description of Judah by "PHILO," Vincennes *Western Sun*, March 10, 1838.

[56] *Ibid.*, July 28, 1827.

[57] *Ibid.*, October 20, 1827.

[58] *Ibid.*, August 2, 1828.

[59] A congressional township in Gibson County (near present-day Princeton) was the township in question. Since 1820 the proceeds from the sale of these lands had gone to support Indiana University in Bloomington. An excellent summary of this complex case is in Thomas D. Clark, *Indiana University, Midwestern Pioneer* (4 vols., Bloomington, 1970-1977), I, *The Early Years*, 5, 19-21, 183-85, 190-97.

a few others.[60] Ewing's most telling argument held that Judah introduced the bill in 1838 without consulting his constituents. In 1841, right after Judah completed his term as speaker of the House, these constituents retired him from office. Joseph S. Jenckes, a representative from Vigo County while Judah was speaker, wrote his former colleague that "nothing in Hoosierland pertaining to politicks has astonished me so much as your defeat. I thought you were invincible . . . ."[61]

Judah and his friends got a chance to even the score when Ewing announced for the Senate again in 1842. Judah presided at the Knox County Whig convention that endorsed incumbent Robert N. Carnan for reelection to the seat Ewing sought. Ewing refused to accept the verdict of what he termed "*a slim majority of an active moiety of the nominally concerned*" within the Whig party.[62] Ewing ran without party endorsement and prevailed by a vote of 911 to 615 in a campaign that was unremittingly vicious on both sides.[63] Once he was back in the Senate, Ewing prepared a resolution that directed *quo warranto* proceedings against the board of trustees of Vincennes University. The bill, which would have halted Judah's lawsuit in its tracks, passed the Senate but failed in the House.[64] The political career of the curmudgeon of the pioneer Senate ended in 1845 when Whigs refused again to endorse him. This time Ewing ran a poor third in a three-man race.

John Ewing was without doubt made of the stuff from which legislative legends spring. The myth-making began shortly after his death with a story that told how the former senator sat down at his desk on April 6, 1858, wrote "Here lies a man who loved Vincennes—His God, his country, and his friends," and died.[65] Such prescience was attributed to no other Hoosier legislator during the nineteenth century.

The vast majority of pioneer lawmakers were unknown beyond their constituency. Tens of dozens served briefly and were never heard from again. William H. English hoped to rescue such men from oblivion when, as president of the Indiana Historical Society from 1886-1896, he collected biographical data on lawmakers. Despite English's best efforts, many have remained relatively obscure. Some died young. Others moved out of the state and left no trace.

Many remained unknown because they were colorful in ways that detracted from their immortality. Merit S. Craig, a representative from Ripley County in the late 1820s, failed "morally and financially by reason of dissipation," according to his physician. "Whiskey caused his premature death."[66] James H. Richardson,

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[60] Ewing's arguments against Judah and the university's board of trustees can be found in the Vincennes *Western Sun*, September 17, 1842, February 15, 1845.

[61] Jenckes to Judah, January 8, 1842, Judah Papers, Lilly Library.

[62] This is how Ewing defined nomination by a party convention in the Vincennes *Western Sun*, March 26, 1842. Emphasis in original.

[63] Whig convention, *ibid.*, April 23, 1842; for a sampling of the campaign, *ibid.*, May 7, 28, June 4, 11, 20, July 2, 9, 16, 23, 30, 1842; for the results, *ibid.*, August 6, 1842.

[64] *Ibid.*, February 15, 1845.

[65] New Albany *Ledger*, April 12, 1858.

[66] Dr. William T. S. Cornett to English, March 23, 1886, Craig file, Legislator, IHSL.

who represented Posey County in the mid-1820s, was unheralded for similar reasons: "He was a man of no religious convictions, rather inclining to Infidelity; was a lover of women."[67] Lemuel G. Jackson (House, 1829-1830) was remembered only as a "very rough, drinking, intelligent man."[68] William P. Rush served two terms in the 1830s and an anonymous correspondent in the 1880s described him as having "neither occupation, religion, nor politics . . . [a] man of easy habits—drinking, carousing . . . ."[69] Another of English's correspondents refused to give any information on John B. Campbell (House, 1847-1849) because "The points to give a *correct* idea of the man are not very complimentary, so I omit them, thinking you will not use them."[70] In contrast to these, a Delaware County farmer who served less than one term was remembered only for his patriotism. John Richey's seven sons served in the Union army and Richey himself was carried to the polls on his deathbed to vote for Ulysses S. Grant.[71]

Samuel T. Clymer departed from the norm of party loyalty displayed by pioneer legislators. Most never switched political parties. The majority of those who did switch did so out of deep moral conviction. Clymer, who served one term (1838-1839) as a Whig and a second term (1845-1846) as a Democrat, probably stood alone in changing parties on purely opportunistic grounds. An acquaintance depicted him in devastating terms as a classic amoral, apolitical schemer. Clymer arrived in Benton, Elkhart County, in 1836. He prospered as an innkeeper and before long several employees and hangers-on gathered around him "as sattelites [*sic*] around a larger orb." Soon the businessman was transformed into the village politician. In 1838 Clymer announced for the legislature as "a decided Whig" against a Democratic incumbent. He won in an upset; "it was a sudden and marked promotion" and "his vanity was much pleased." When Clymer was in turn beaten by an unknown Democrat in 1839 he was mortified. In 1840 the "decided Whig" became an "ultra Whig" to boost the Harrison-Tyler ticket. In 1841 he went to Washington, D.C., seeking an Indian agency in return for his service to the party. Clymer hung on in the national capital as long as his funds permitted, but he ultimately had to return to Benton without an appointment. In 1842 he materially modified his "Ultra Whig views," ran for the state Senate as an independent, and lost. The following year he moved to Goshen and announced his conversion to the Democratic party. After this "acrobatic feat that astonished the Whigs," Clymer was elected to a second term in the House. The leaders of his new party could not trust him, however, and he never held another office.[72]

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[67] Sketch of Richardson by John B. Smith, Richardson file, *ibid.*

[68] E. W. Hedges to English, May 7, 1888, Jackson file, *ibid.*

[69] Rush file, *ibid.* In fact, Rush was a farmer by occupation, a Whig by politics.

[70] Ephraim Rockafellar to English, undated, Campbell file, *ibid.* Emphasis in original.

[71] Richey was elected on December 9, 1837, to fill the vacancy created by the death of William G. Brenner. He was seated on December 18. Richey file, *ibid.*

[72] Sketch of Clymer by John W. Irwin, Clymer file, *ibid.* An endorsement on the front of this file by English stated that "this sketch must be materially modified so as not to offensively reflect on Clymer." Other sources, however, corroborate Irwin's view of Clymer. P. M. Henkel

Life in the Capital City

The General Assembly convened in three separate state houses during the pioneer period. The first eight sessions met at the Harrison County courthouse in Corydon. This was a two-story structure, forty feet square, of gray limestone. There was one room on the main floor—the Representatives Hall—with an arched entrance on the west side. Half of the room was floored with flagstones, and separated by a railing from the area where the House actually met. A slightly raised floor of wooden planks covered this section, and there were large fireplaces at each end of the room. A stairway in the northwest corner led to the upper floor, which housed two rooms. One, a long, narrow room with a fireplace in one corner, was reserved for the Senate (the "Upper House"). The other was used for meetings of the state Supreme Court.[73]

Such was the immediate stage upon which the legislature of Indiana first performed. Almost a century after the General Assembly left Corydon, Senator Evan B. Stotsenburg of New Albany led a move to secure this original State House. In 1917 the state paid $50,000 to the board of commissioners of Harrison County for title to the building and grounds so that the old capitol would be preserved as "a memorial to the hardy pioneers who founded the commonwealth of Indiana."[74]

After the move to Indianapolis sessions met until 1835 in a building similar to the Corydon facility. The Marion County courthouse faced Washington Street between Delaware and Alabama streets, and measured forty-five by sixty feet. On the first floor was a main courtroom that served as the Representatives Hall. In the rear of this hall were two rows of seats for spectators. There was also a smaller, closet-size room and a narrow hall leading to a stairway that gave access to a second story. Here there was a second courtroom where the Senate convened, plus three smaller rooms. This courthouse was practically the only public building in town for a decade. The legislature made it a State House for three months every winter. Federal, state, and county courts and the county board of commissioners met there the rest of the year. After the State House was completed in 1835, the courthouse continued to serve as an occasional

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described Clymer as the landlord of the American Hotel in Goshen during the mid-1840s in these words: "he never failed to make known his own importance . . . during the time he was a member of the legislature. This information left the impression . . . that he was a man of some importance." Anthony Deahl (ed.), *A Twentieth Century History and Biographical Record of Elkhart County, Indiana* (Chicago, 1905), 223. See also H. S. K. Bartholomew, *Stories and Sketches of Elkhart County* (Nappanee, Ind., 1936), 71. This source said that Clymer was "a wily politician, but a man of great sprightliness and self confidence."

[73] Jacob Piatt Dunn, *Indiana and Indianans* (5 vols., Chicago and New York, 1919), 1:295; William H. Roose, *Indiana's Birthplace: A History of Harrison County, Indiana* (New Albany, Ind., 1911), 17-19.

[74] *Laws*, 1917, pp. 560-65, quotation, 564. For Senator Stotsenburg's initiative, see Ethel Cleland, "New Facts About the Corydon State House," *IMH*, 9 (1913), 14. Subsequent laws gave management of the property to the state Department of Conservation and provided funds to restore the building and grounds to their original condition. *Laws*, 1925, pp. 264-65; *ibid.*, 1929, p. 359. See also George S. Cottman, *The Corydon State House: A Hoosier Shrine* (Indianapolis, 1930).

church, convention hall, lecture room, concert hall, ballroom, and theater. It was demolished in 1870.[75]

There was pressure in the General Assembly for a State House from the time state government moved to Indianapolis. In 1831 a joint committee recommended action and New York architects Ithiel Town and Alexander J. Davis submitted plans for a classic Greek structure that departed from the Parthenon in only one major particular—a huge, Romanesque dome in the center. The legislature approved the design in January, 1832, and construction began the following spring. An impatient legislature accepted the building in December, 1835, three years before the specified completion date.[76] Representative Ezra F. Pabody found the new capitol "a striking contrast with the log huts interspersed through the almost 'boundless contiguity of shade' which surrounds it." Pabody added that the legislative chambers occupied the second story, with a rotunda between them. Both rooms were semicircular in shape with the chairs of the presiding officers in the center at the axis.[77] Although a disgruntled contemporary described the State House unflatteringly as "A Greek temple with a cheese box on top," the building was the marvel of Indianapolis in the late 1830s.[78]

The facility was an object of legislative concern within a year of occupancy and it remained so for the duration of its existence. Vandalism ("defacing and marking by idle and vicious person[s]") posed a security problem.[79] In addition, the roof leaked.[80] The General Assembly designated the state librarian as "keeper of the State House and Library" in 1841 to cope with these problems. His duties were definitely intended to be custodial as the law specified that he was to clean and repair carpets, keep the fence and gates in good order, trim and prune trees and shrubs, and mow the lawn.[81] In 1845 historian John B. Dillon was elected state librarian by the General Assembly for a two-year term.[82] He was reelected in 1847 and spent much of his time during both terms on maintenance problems. Indeed, on one occasion Dillon even accompanied a legislative committee on an inspection of the leaky roof. When the committee subsequently reported that the preservation of the building required a new roof, the Senate suspended the

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[75] Sulgrove, *History of Indianapolis*, 43-45; Jacob Piatt Dunn, *Greater Indianapolis* . . . (2 vols., Chicago, 1910), 1:48-49, 61-63.

[76] Town and Davis also designed the capitols in Raleigh, North Carolina, Springfield, Illinois, and Columbus, Ohio. For the original plans for the Indianapolis structure, see "Report of the Commissioners . . . ," *House Journal*, 1834-35, p. 147; for acceptance of the building, *ibid.*, 1835-36, pp. 90-91; *Laws* (general), 1835-36, pp. 87-88.

[77] Pabody to his wife, December 17, 1836, in E. B. Newcomb Papers, Indiana Division, ISL.

[78] Indianapolis *Sunday Star*, December 6, 1936.

[79] *House Journal*, 1836-37, pp. 187-88.

[80] For examples of the difficulties caused by the leaky roof, *Senate Journal*, 1844-45, p. 621; *Laws* (general), 1849-50, p. 214.

[81] *Laws* (general), 1840-41, pp. 114-19.

[82] *Senate Journal*, 1844-45, pp. 455-57.

rules, read the bill a second time, suspended the rules further, and passed it.[83] Nothing the legislature did could improve a State House that "did not age well, and before it was replaced it acquired the appearance of a genuine Grecian ruin."[84]

Travel to and from sessions during the pioneer period was difficult and sometimes hazardous. A few lawmakers walked. Samuel Connor reportedly did so to attend the 1816-1817 session, covering the fifty miles from Perry County in one day. By 1850 travel by foot was rare. Nonetheless, Silas Davis walked approximately 125 miles from Dubois County to the 35th session, carrying his provisions and clothing in a saddlebag slung over his shoulder.[85]

Some lawmakers traveled part of the way by boat. The men from the Whitewater country sometimes put their horses on a flatboat or raft at Lawrenceburg, floated down the Ohio to New Albany, and then continued by trail overland to get to Corydon. Boats were even used for part of the trip to Indianapolis by legislators from the northeastern corner of the state. They went from Fort Wayne to Logansport by canal, and then continued to the capital by horseback or stagecoach.[86]

A majority made the round trip on horseback and most took great care to prepare their animal for the journey. Representative Benjamin F. Arnold described how he gave his steed rough shod and an extra feed in 1839 as session time drew near. He then bid "many fond good byes to his wife and little boys . . . and rode away." After a hard day's journey from Columbus, Arnold arrived at the capital "exceedingly tired and much bespattered with mud."[87] Mud was the road hazard encountered most frequently. A group from Allen County discovered as late as 1845 that mud remained a problem even on an "improved" Michigan Road. Four legislators traveling by stagecoach from Logansport to Indianapolis had to stop "two or three times . . . to get . . . the wheels out of the mud."[88] Since sessions opened and closed in rainy seasons, there was also danger from flooding. Indeed, after several days of incessant rain in 1829, many lawmakers had to "undergo the operation of swimming" to be present for the opening prayer.[89] Because of such dangers, legislators who traveled long distances

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[83] Report of committee to inquire into the condition of the State House roof, *ibid.*, 1850-51, p. 551. The bill for a new roof did not pass the House until the 1851-52 session. *Laws* (special and local), 1851-52, pp. 157-58.

[84] Dunn, *Greater Indianapolis*, 1:105. For the shortcomings of the first State House, see Ignatius Brown, *History of Indianapolis From 1818 to 1868*, in *Logan's Indianapolis Directory for . . . 1868-69* (Indianapolis, 1868), 22-23.

[85] "When Indiana Was Young and Its First Legislature Met," Indianapolis *News*, February 5, 1921; Dr. E. J. Kempf to William H. English, December 21, 1887, Davis file, Legislator, IHSL.

[86] James Brownlee and Christian Parker files, Legislator, IHSL.

[87] Many legislators saved the expense of boarding their horse by having a hired hand or son return the animal home. See Arnold and Joab Woodruff files, *ibid.*

[88] Christian Parker file, *ibid.* For one trip home, Parker and Senator Reuben J. Dawson of DeKalb County together bought a horse and buggy and "succeeded in getting home more comfortably." For an account of group travel from southern Indiana in the 1840s, see John Edwards file, *ibid.*

[89] Indianapolis *Indiana Journal*, December 8, 1829.

tended to journey in groups. One group returning to Fayette County from Corydon in the early 1820s got lost in the wilderness of Bartholomew County. After wandering with but little food for several days the men chanced across some friendly Indians who shared a meal of squirrel soup with the lawmakers before guiding them out of the wilds.[90] On the other hand, conditions for group travel between DeKalb County and Indianapolis had improved by 1847 to the point where Representative John P. Widney could write: "The road was well supplied with wayside Inns, where, with vigorous appetites, [we] feasted royally."[91]

General Washington Johnston once blamed his failure to keep in touch with constituents on "fatigues incedent [*sic*] to a session . . . and traveling through the cold, over bad roads . . . ."[92] Johnston had a point: primitive travel conditions combined with the hardships of winter undoubtedly exacted a heavy toll annually on the health of legislators. The round trip by horseback from Orange County in 1835 was said to have left Shadrach B. A. Carter so weak that he died just five weeks after returning home.[93] Joseph Curtis of Wayne County was another said to have suffered ill effects from "traveling . . . in the deep mud and rain."[94] Representative James Conwell described the health problems at one session:

> there is and has been, a great deal of sickness; also a number of deaths in this place. There are several members of the House now sick, most of them on the mend. Not so many have been taken away in the last few days, as previously.[95]

A health scare during the 1847-1848 session caused such a sudden exodus from Indianapolis that the General Assembly became an object of ridicule statewide. Congressman Andrew Kennedy, a state senator from 1836 to 1840, came to the capital seeking a United States Senate seat. The popular Kennedy seemed a sure bet to replace Edward A. Hannegan; but before the legislature could act he caught smallpox. Panic-stricken members voted to adjourn as soon as they heard of Kennedy's affliction. Representative John P. Widney explained that "to remain in the city with visions of the dread disease before us, was not to be thought of." Widney added that rumor preceded the members as they traveled home. "Our approach was in many places the signal for closing doors and rapid retreat."[96] Therefore, when Kennedy died on December 31, there was no one to arrange for his burial. Finally, the sexton of the cemetery and the driver of the hearse buried him at midnight of the day he died.[97]

The press taunted and twitted the legislature for deserting its post. The *State Sentinel* published a long, sarcastic poem that concluded with the prayer:

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[90] James Brownlee file, Legislator, IHSL.
[91] Widney file, *ibid.*
[92] Vincennes *Western Sun*, January 18, 1823.
[93] Carter file, Legislator, IHSL.
[94] Sketch of Curtis by Daniel Huff, Curtis file, *ibid.*
[95] Conwell to his wife, January 17, 1841, Conwell file, *ibid.*
[96] Widney file, *ibid.*
[97] Kennedy file, *ibid.*

O, may their stars protect these men
From small-pox and from great
Evils which, till they come again,
May threaten our lov'd State![98]

A newspaper in Hancock County denounced the recess as "one of the most ridiculous acts ever committed by men professing intelligence." It added a poem of its own entitled "The Scatteration." An editor in Richmond pronounced scorn for "the precipitate and panic-stricken '*vamosing*' . . . ."[99] A legislator who requested anonymity defended "The Adjournment" by noting "It is very easy for he who lives a hundred miles from the seat of war to tell how he would fight . . . but place him in contact with the enemy, especially such an insidious one as this, and . . . he would think and act very different."[100] The 32nd General Assembly reconvened on January 10, 1848, without any casualties and remained in session until February 17.

Legislators patronized hotels and boardinghouses for their homes away from home. At Corydon some stayed at the tavern run by Elizabeth Spencer, the widow of Spier Spencer. Most, however, stayed at Jacob Conrad's Hotel (the old Capitol Hotel), a mile or so east of the village on the New Albany pike. It was built of large limestone blocks with massive walls more than a foot thick. The rooms were small, but each had a fireplace and "cavernous, many-shelved cupboards." An added attraction was the large spring with water that blended nicely with brandy or whiskey to treat malaria, chills, ague, or snake bite. With whiskey selling for 37.5 cents a quart, one need not have suffered from any of these maladies. Lodging was 12.5 cents a night; breakfast and dinner were 37.5 cents; and supper was 25 cents. As a bonus, Conrad offered a stable with good pasture for horses at no additional charge. The hotel grounds were the major place of amusement where Sundays and evenings were spent pitching horseshoes, running, jumping, and wrestling.[101]

There were no hotels in Indianapolis when the legislators first met there, only cabins operated by Elizabeth Nowland, John Hawkins, and others. Members "huddled together" in these accommodations, generally six to eight in a room, and paid two to three dollars apiece per week. Horses were kept by farmers in the area who were anxious to have them at from 50 to 75 cents per week. Nowland and Hawkins made additions that enabled them "to accommodate more persons and in better style" by the time the second legislature met in the city; but Indianapolis had no hotel until 1826.[102]

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[98] Indianapolis *Indiana State Sentinel*, December 29, 1847.

[99] Greenfield *Hancock County Investigator* and Richmond *Jeffersonian*, reprinted in Indianapolis *Indiana State Sentinel*, January 1, 1848. Emphasis in original.

[100] "The Adjournment," *ibid.*

[101] For particulars on hotels and boardinghouses in Corydon, see Charles Moores, "Old Corydon," *IMH*, 13 (1917), 23; Roose, *Indiana's Birthplace*, 52-55; Cottman, *Corydon State House*, 52-53.

[102] For descriptions of accommodations during the first two sessions in Indianapolis, see John H. B. Nowland, *Early Reminiscences of Indianapolis* (Indianapolis, 1870), 168; Brown, *History of Indianapolis*, 36.

The Union Inn, on Washington Street opposite the courthouse, was probably the first. It had ten rooms on the second floor, and accommodated as many as six persons to a room. Lodging was 25 cents per night in the 1830s, and meals were 25 cents each. Boarding a horse cost 37.5 cents a day more. "The favorite haunt of the male guests" was the bar where a keg of beer cost the proprietor $1.25 and whiskey and beer sold for 6.25 cents a glass. The Union Inn Literary Society maintained a library for those who preferred reading. Selections included histories of ancient Rome and the United States, the poems of Ossian in two volumes, and *Robinson Crusoe*.[103]

Washington Hall, also built about 1826, was on the south side of Washington Street less than two blocks west of the courthouse. Additions to the structure included spacious verandas that made it the largest hotel in the state. In 1836 a brick building replaced the original but kept the name. Representative Ezra F. Pabody lodged at this "new and splendid building" during the 1837-1838 session. He described it as four stories high, with room for about 150 to 200 boarders. The clientele included legislators, judges, members of the bar, and candidates for office. "I occupy a room (with two others) in the third story," Pabody wrote. "Board . . . is $6.00 per week; horsekeeping in the neighborhood of $1.50." Washington Hall served as state headquarters for the Whig party. After Edmund Browning took over as manager in the late 1830s, it was sometimes known as Browning's Hotel.[104]

The Mansion House, better known as Basil Brown's place, was directly across the street from Washington Hall. This two-story frame building was less pretentious than its neighbor. It served as state headquarters for the Democratic party until 1841 when the Palmer House was completed. William H. English remembered life at Brown's from his first visit to Indianapolis in 1840. "It was the practice then for members of the Legislature to board together in messes," English recalled. A judge and seven legislators—"all Democrats"—shared the room with English and his father.[105]

Boarding together in messes had its drawbacks, as Charles H. Test observed in a letter to his wife during the 1828-1829 session:

> Old Gen'l. Dill and myself room together though we do not sleep together. God forbid that we should. I would as leave have a whiskey keg stuck under my nose, as be forced to smell his breath all night. I would prefer having a cold bar of Iron in my bed as his little dried up, swivelled legs.[106]

On special occasions members who could afford better accommodations found them. For example, Representative and Mrs. Heman H. Barbour honeymooned at Colonel James P. Drake's hotel on the north side of Washington

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[103] Kenneth Loucks, "A Hoosier Hostelry a Hundred Years Ago," *Indiana History Bulletin*, 8 (1931), 308-15.

[104] Pabody to his wife, December 7, 1837, in E. B. Newcomb Papers, Indiana Division, ISL. See also Lee Burns, *The National Road in Indiana* (Indianapolis, 1919), 232; Sulgrove, *History of Indianapolis*, 269-70.

[105] English to J. F. Tuttle, November 20, 1893, Jeptha Garrigus file, Legislator, IHSL.

[106] Test to Rebecca Test, December 16, 1828, Test Papers, Lilly Library.

Street between Meridian and Pennsylvania during the 1845-1846 session. Mrs. Barbour was especially pleased and wrote her sister that "The room which we occupy has a good fireplace, which never smokes; a first-rate bed, well covered with comfortables . . . four chairs, a wash-stand, a handsome woolen carpet upon the floor—in short everything is comfortable and nice." Apparently the Barbours also ate well: "O, it would make your mouth water to see the roast turkies, 'chicken fixings,' &c., of which we partake every day, and the fine oysters we have during the evening."[107] When the Barbours returned for the 1847-1848 session, they were joined by "little Albert" and stayed with the other Democrats at Basil Brown's until the smallpox scare.[108]

Since most legislators could not afford the luxury of bringing their families to Indianapolis, the legislative life could be a lonely one. Some lawmakers broke the monotony with card games. For example, at the 1826-1827 session Senator John S. Simonson and Speaker Harbin H. Moore reportedly "renewed their gaming" every night.[109] Others pitched horseshoes or wrestled. In the 1840s a young woman who worked at Browning's Washington Hall gave wrestling a new twist. Kate Bull prided herself as a wrestler and challenged legislators regularly. She reportedly once threw Senator Abner M. Bradbury of Wayne County and his brother Daniel so hard that their "bones ached for many hours."[110] Toward the end of the pioneer period a new sport—ten pins or bowling—appeared. Ten pins "nearly as long as your arms" were placed at one end of a long, narrow plank floor. Participants rolled balls "about the size of your head" at the pins. Whoever knocked down the most pins won. A participant reported that the game "invigorates one very much after being confined in the State house all day."[111]

Although diversions like bowling were popular, nothing altered the basic fact that those who served in the General Assembly of necessity sacrificed the joys and contentments of family life for two or three months every year. Right before the 1826-1827 session, Charles H. Test captured some of the sense of longing for wife and children that must have been felt by most of his colleagues:

> Write to me often, and let me know how things are going on. . . . kiss John for me. Dear little fellow I want to see him already. I shall scarcely be able to do without seeing him this long winter. He is just of a size to be interesting. When children are but beginning to prattle they are more engaging than at any other period of life[.] Accept my warmest love.[112]

Lobbying for the Harmony Society and Free Public Schools

No account of legislative life would be complete without some consideration of lobbyists, those unelected individuals who form an integral part of life at

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[107] Frances E. Barbour to her sister, November 24, 1845, in Heman H. Barbour, *My Wife and My Mother* (Hartford, Conn., 1864), 69.

[108] Frances E. Barbour to her cousin Jane, January 2, 1848, *ibid.*, 91-92.

[109] Reminiscences of Charles H. Test, Test file, Legislator, IHSL.

[110] Abner Bradbury file, *ibid.*

[111] Alvin P. Hovey to Mary Hovey, December 18, 1850, in Hovey Papers, Lilly Library.

[112] Test to Rebecca Test, December 2, 1826, Test Papers, *ibid.*

the state capitol. Of course, professional lobbyists and organized pressure groups did not exist in frontier Indiana. There was lobbying, however, in the sense of cornering and glad-handing legislators, although it was not overt until after the move to Indianapolis. One of the earliest complaints against such lobbying was registered by Charles H. Test, the secretary of the Senate in 1828. Test was disgusted by the "intrigue and flattery" of those lobbying for session-time jobs and especially critical of senators who "feel their consequence very much and like . . . to shew that they hold the keys of the public Treasury."[113] The practice became so widespread by 1841 that an Indianapolis newspaper made note of men "seen daily and hourly, during most of the sittings of our Legislatures . . . endeavoring by . . . importunity and boldness to influence the members . . . in shaping the business of legislation . . . ."[114] Such men were less numerous than their counterparts in subsequent eras. They also lacked the organization, sophistication, and professionalism of twentieth century lobbyists. Nonetheless, they were there, an unelected omnipresence in the legislative process.

While the legislature met at Corydon the religious community at Harmony was the nearest thing to an interest group and Frederick Rapp, the Harmonists' spokesman to the outside world, was the nearest thing to a lobbyist. These close-knit German immigrants followed the teachings of George Rapp, who brought them to Posey County from Pennsylvania in 1814. Rapp was a pacifist who taught the necessity for communal ownership of property. He also counseled celibacy as an ideal and preached that his followers were a select few awaiting the second coming of Christ. The fact that they were different and refused militia service made Harmonists an object of suspicion to their neighbors. State Treasurer Samuel Merrill said Rappites "do not seek converts, and . . . it is very rare that children are born among them."[115] One thing many Harmonists did do, however, was vote. Approximately 250 to 300 of them voted regularly and they usually voted the way George Rapp suggested. This bloc vote gave the commune on the Wabash more political clout than any community of like size in Indiana.[116] Bloc voting also explained why senators and representatives from Posey County kept in close touch with their Harmony constituents. A report to the Harmonists by Senator Daniel Grass in 1816 reviewed legislative proceedings and closed with well wishes: "Long may your Pios [*sic*] Institutions and useful Establishments Remain—I pray for their Increase."[117] Both the thoroughness and solicitous tone of Grass' letter were typical of the special relationship between the Harmony

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[113] Test to Rebecca Test, December 16, 1828, *ibid.*

[114] Indianapolis *Indiana Journal*, September 17, 1841.

[115] Merrill to Jesse Merrill, January 25, 1824, in John C. Andressohn (ed.), "Three Additional Rappite Letters," *IMH*, 45 (1949), 185.

[116] For examples of candidates soliciting support because of the bloc vote, see letters of Charles I. Battell and Ratliff Boon to Frederick Rapp, in Karl J. R. Arndt (ed.), *A Documentary History of the Indiana Decade of the Harmony Society, 1814-1824* (2 vols., Indianapolis, 1975, 1978), 2:80, 253-54. For an excellent scholarly overview of the Rappite settlement, see Donald E. Pitzer and Josephine M. Elliott, "New Harmony's First Utopians, 1814-1824," *IMH*, 75 (1979), 225-300.

[117] Grass to Frederick Rapp, December 16, 1816, in Arndt (ed.), *Documentary History*, 1:275.

Society and its legislators. Posey County lawmakers kept Harmonists fully informed until 1824 when George Rapp moved his followers back to Pennsylvania.[118] At the same time communications from Harmonists received respectful attention even if Rappites did not always get what they wanted. Judged by Frederick Rapp's letters to legislators, the commune's major objectives were reduction or repeal of the fine levied in lieu of militia service, the improvement of navigation on the lower Wabash River, and state protection for Harmony against attacks by suspicious neighbors.[119]

The legislative obligation to establish free schools "as soon as circumstances will permit" provided impetus for significant lobbying. Newspapers in the state had called for universal free education almost from the time Indiana entered the Union. "There cannot, surely, be a subject of more importance to the ultimate and permanent prosperity of our State," said an editor in Richmond. Elihu Stout called repeatedly for the legislature to direct its attention to free schools, asking at one point "what parent . . . would not willingly be assessed . . . so . . . his children would receive literary instruction?" In 1829 the *Western Register* at Terre Haute articulated a sentiment shared by most editors in Indiana: "When the instruction of youth shall be borne by the wealth of community . . . then, and not till then will our beloved institutions rest upon a sure foundation."[120]

Such appeals fell on deaf ears in the late 1820s and early 1830s as legislative attention was fixed on internal improvements. The lobbying and logrolling were intense regarding the location of such projects. The effort was also intense to secure contracts to build locks and bridges on the proposed canals and lay the track for proposed railroad lines.[121] As a result, almost no attention was paid to common schools.

The profusion of sources for funding was another important reason a viable free school system did not emerge. At least ten separate funds were specified at one time or another to support free schools. Some, like the Congressional Township, Saline, and Surplus Revenue funds were part of the federal endowment to Indiana. Others, like the County Seminary, Delinquent Tax, Sinking, and Contingent funds were the results of state legislation.[122] An unlikely set of circumstances brought about the effort to coordinate and systematize the use of these funds. The combination included a communist experiment that failed, the chartering of the Second State Bank, and the persistence of a New England Calvinist who believed that God willed the eradication of illiteracy in Indiana.

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[118] Letters to Frederick Rapp from Dann Lynn, Ratliff Boon, Richard Daniel, Charles I. Battell, Elisha Harrison, John Schnee, Thomas H. Blake, and John Law, *ibid.*, 1:275-76, 432-33, 445-46, 447-48; 2:161-62, 162-63, 178-79, 330, 339-40, 740-41, 752, 780-81.

[119] Rapp to Representatives Charles I. Battell and David Robb, and Senator Elisha Harrison, *ibid.*, 1:157-59, 330-31.

[120] Richmond *Public Ledger*, November 11, 1826; Vincennes *Western Sun*, November 29, 1828; Terre Haute *Western Register*, January 17, 1829.

[121] For a description of the effort made by one company to secure contracts for building locks and bridges on the Wabash and Erie Canal, see Richard Miles to Samuel Merrill, December 8, 1848, in Merrill Papers, IHSL.

[122] Boone, *History of Education in Indiana*, 164-211.

Although the effort did not bear full fruit until after the second Constitution was adopted, the circumstances began to coalesce in 1825, the year that the General Assembly moved to Indianapolis. That was also the year Harmony became New Harmony as George Rapp sold his holdings to Robert Owen, the Scottish industrialist.

Owen was a socialist visionary planning a secular utopia along the lower Wabash. He saw univeral education as the cornerstone of a scientifically constructed society in which mankind would be freed at last from the shackles of family and private property. Owen's advanced ideas on education included integration of the sexes, the introduction of dancing and music to the curriculum, and the use of visual materials for instruction.[123] Although Owen's experiment failed by the end of 1827, his educational reforms had lasting effects. In 1830 an Owenite remnant still living at New Harmony called upon the legislature to provide universal free education. If the legislature could not provide such a system for the whole state, New Harmonists still wanted a system for themselves: "let us have one that will apply to the county of Posey only."[124]

John Beard was one of the few legislators genuinely interested in funding a common school system. He served sixteen years in the General Assembly and his persistence paid off in 1834 when the charter for the Second State Bank "was being ping-ponged from house to senate, and from senate to house." Before final action, the "venerable, simple-hearted, clean-handed, sound-minded" farmer from Montgomery County offered an amendment whereby any residue from the bank's sinking fund would be appropriated for common schools. A majority, convinced there would never be any surplus, paid little attention to Beard's proposal. When the bank bill passed, Beard's amendment remained intact. While there was no immediate relief for common schools, by the 1860s the school fund had realized over $4.25 million from this source. By this one amendment John Beard earned his posthumous title as "father of the state school fund system."[125]

Direct funding for common schools remained practically nonexistent until 1849 because of the apathy of most legislators and the animus of some. At the 1837 session one member reportedly remarked while taxation for schools was under discussion "When I die I want my epitaph written, 'Here lies an enemy to free schools.'"[126] Ten years later an Indianapolis newspaper lamented that there were legislators who "hate colleges so cordially that they would go out of their way to kick a Sophomore, and would injure the school fund for the sake of ruining a college."[127]

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[123] For an overview of Owen's effort, see Donald F. Carmony and Josephine M. Elliott, "New Harmony, Indiana: Robert Owen's Seedbed for Utopia," *IMH*, 76 (1980), 161-261.

[124] An education "convention" met at New Harmony on July 17, 1830, and the proceedings were published in the Vincennes *Western Sun*, August 7, 1830.

[125] Sketch of Beard by John Coburn in Beard file, Legislator, IHSL; "How Indiana School Funds Were Created," Indianapolis *News*, August 5, 1910. This article is based upon a report submitted by George Pence to the state Board of Accounts. For the history of the sinking fund, see Boone, *History of Education in Indiana*, 189-93.

[126] Quotation in Boone, *History of Education in Indiana*, 87.

[127] Indianapolis *Indiana State Sentinel*, January 5, 1847.

Robert Dale Owen, the son of Robert Owen and generally recognized as the first champion of taxation for free schools in the legislature, stepped into the controversy in 1836 when he won a seat in the House. The younger Owen had entered politics to procure a share of "the System" of internal improvements for Posey County. His announcement of candidacy, as well as the conduct of his campaign, showed Owen's major interest was in canals and roads. Only after he failed to land any projects did Owen turn to free public schools as a matter in which his constituents had also shown some interest.[128] In his first speech on schools in the House, Owen stated that "every subject . . . before us . . . is of small importance compared with the wise training of those, who, in the next generation, are to make this world a happy or a miserable one."[129] From the day of this speech Robert Dale Owen became an articulate promoter of free schools. He organized education conventions during sessions to propagandize the legislature. While presiding at such a convention during his second term in the General Assembly he stated that "we must pay for teachers, or we must pay for prisons and penitentiaries."[130] But it was mostly for naught as the legislature remained niggardly. By 1840 one seventh of the population of Indiana was illiterate; by 1850 the proportion had grown to one in every five.[131]

This would soon change, due largely to the effort of a Congregational minister who arrived in Indiana in 1833 with plans for a private college where teachers might be trained for the common schools. Caleb Mills, fresh from Dartmouth College and Andover Seminary, settled at Crawfordsville and accepted twelve students at what became Wabash College. For several years Mills fought a losing battle over free schools with an indifferent legislature and electorate. Then, at the commencement of the 1846-1847 session, Mills marshalled the facts and arguments for free schools in an address with a bold, black heading that commanded legislators to "READ, CIRCULATE, DISCUSS." He opened disarmingly with an observation that the gentlemen from Jackson, Martin, Clay, and Dubois counties could be relieved of sending newspapers and legislative documents to constituents, nearly half of whom could neither read nor write. Mills blamed the illiteracy on a legislature that borrowed millions for internal improvements "but we have not *raised* a dollar by . . . taxation to cultivate the minds of our children."[132] This effort by Mills stimulated discussion but little else. So the minister-educator organized an education convention for May, 1847, to mobilize public opinion on behalf of free schools.

Mills and his friends met in Indianapolis amidst all the trappings of a political convention. Several former or current legislators took active parts, in-

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[128] Richard W. Leopold, *Robert Dale Owen: A Biography* (Cambridge, Mass., 1940), 143-48.

[129] Indianapolis *Indiana Democrat*, January 13, 1837.

[130] The convention met on December 27, 1837. Vincennes *Western Sun*, February 3, 1838.

[131] For the declining rate of literacy in Indiana during the first half of the nineteenth century, see Boone, *History of Education in Indiana*, 87-89.

[132] Charles W. Moores, *Caleb Mills and the Indiana School System* (Indianapolis, 1905), 363-96; for the 1846 address, *ibid.*, 397-428, quotation, 409, emphasis in original. See also Boone, *History of Education in Indiana*, 87-111.

cluding Judge Isaac Blackford who was elected chairman. Oliver H. Smith, Calvin Fletcher, Richard W. Thompson, and Jeremiah Sullivan were among the ex-legislators present. Current legislators included Amory Kinney, Solomon Meredith, Franklin W. Hunt, and James H. Henry. Renowned non-legislators in attendance included Professor Daniel Read of Indiana University. Early in the proceedings Calvin Fletcher noted misgivings over sectarian differences: "It seems the Methodist College at Greencastle was afraid of the college at Crawfordsvill[e] & the college at Bloomington afraid of both."[133] These differences paled, however, in the face of a common concern for free schools. Before adjournment Fletcher was named chairman of a committee to prepare a bill for introduction at the 1847-1848 session. Another committee was to prepare a pamphlet to explain the need for free schools.[134]

Mills had to direct two additional years of intensive lobbying before "An Act to increase and extend the benefits of Common Schools" passed. The electorate approved the principle of "free schools" by over 16,000 votes at the August, 1848, state election. The following year public taxation for support of schools was legalized. Specifically, the 1849 law imposed a 1 mill county tax, a 25 cent poll tax, and a 3 cent tax on out of state insurance companies.[135] Richard G. Boone wrote in 1892 that the 1849 school law was significant because "Public taxation meant something of system and hinted at permanency."[136] The eventuation of a permanent system of tax-supported schools was the most important result of the lobbying by Caleb Mills.

Lawmakers who assembled for the 35th General Assembly in 1850 probably knew that an era was ending. The second Constitutional Convention, called primarily to remedy legislative shortcomings, was underway. Since more than half of the convention delegates (80 out of 150) had served in the legislature, a majority knew firsthand what must be done to make lawmaking more businesslike. Two major reforms in the new Constitution forbade private legislation and substituted biennial for annual sessions. In this way the General Assembly became more efficient; but in the process some of the spontaneity and uncertainty of the early years was lost. Richard W. Thompson, who served Lawrence County in both houses in the 1830s, recalled his legislative service sixty years later. "There was lots of fun then in the legislature—and fun is the right name for it," said Thompson. He concluded with justified pride in the work of his colleagues: "They were all pioneers engaged in the formation of a state and I never saw a more conscientious body of men."[137]

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[133] Gayle Thornbrough, Dorothy Riker, and Paula Corpuz (eds.), *The Diary of Calvin Fletcher* (9 vols., Indianapolis, 1972-1983), 3:380.

[134] Boone, *History of Education in Indiana*, 96.

[135] *Ibid.*, 128; *Laws* (general), 1848-49, pp. 123-31.

[136] Boone, *History of Education in Indiana*, 120.

[137] Indianapolis *Sentinel*, April 8, 1894.

Part II
THE MIDDLE PERIOD
1850 to 1890

Chapter 5

The Setting and the Major Issues

The population of Indiana more than doubled between 1850 and 1890 as the number of Hoosiers increased from just under one million to over two million. The central and northern counties benefited the most from this increase: population growth in the southern counties began tapering off at midcentury. According to the Census of 1880 nearly 95 per cent of the population was native-born American, including more than 70 per cent born in Indiana. The ratio of rural to urban population did decline from over nine to one in 1850 to just above seven to one in 1890. Increasingly, however, after 1880 a greater percentage of newly arrived settlers located in cities.

German and Irish immigrants from Europe and blacks who migrated from the South constituted the three largest ethnic minorities. The Germans and the Irish began to arrive in the 1840s; by 1890 there were nearly 80,000 Germans and nearly 30,000 Irish. Along with blacks, who numbered 39,228 by 1880, the Germans and the Irish had the most impact of any ethnic minorities upon the General Assembly. The minorities that were fewest in number, however, sometimes made their presence known. For instance, by 1890 there were only a few hundred persons in the state from the countries of eastern Europe. Joseph F. Suchanek, a Czech immigrant who settled in South Bend in the 1880s, was one. An ardent trade unionist, Suchanek became "very popular among the working men of Northern Indiana." In 1892 they elected him to the Indiana House as a Democrat from St. Joseph County.[1]

In 1850 there were only about 200 miles of railroad track completed in Indiana and Indianapolis was a provincial village of just over 8,000 people. Almost half of the track (eighty-six miles) was taken up by the Madison and Indianapolis Railroad, which was finished in 1847. During the next forty years the capital became known as "Railroad City" as it and the state's railroads grew spectacularly. The city passed the 75,000 mark in population by 1880 and exceeded 105,000 by 1890. At the same time a statewide rail network of over 4,000 miles was built that reached into almost every county and enabled lawmakers to travel to the capital with ease from the most distant corners of the state. The ascendancy of Indianapolis made it the commercial and industrial, as well as political, center at a time when the state remained basically rural and agricultural. Farming remained the chief occupation and the typical farm was a small one worked by its owner. There was a slow but steady growth of manufacturing in some cities in the 1870s and 1880s, with meatpacking, flour and grist mills, lumber yards, and foundries constituting the major industries. But rapid industrialization did not take place until after 1890. By then the capital was more than twice the size of the second largest city, Evansville, which had a population of 50,756 people. Fort Wayne, South Bend, and Terre Haute each

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[1] Suchanek file, English Legislator Collection, Indiana Historical Society Library, Indianapolis.

numbered between 21,000 and 35,000 people; no other city yet numbered 12,000.[2]

The issues of race, women's rights, and state control of alcoholic beverages dominated Hoosier politics between 1850 and 1890. These were the kinds of issues that divided the people and their representatives into passionate advocates with diametrically opposite views. As a general rule lawmakers accepted or rejected totally civil rights for and the granting of citizenship to blacks and women. They also tended to accept or reject totally the right of the state to regulate stringently and even prohibit the consumption of liquor. Of the three, race proved the most disruptive in Indiana and in the nation at large. The attitude of most Hoosiers at midcentury toward blacks was summarized by an editor in Brookville: "Let Indiana have nothing to do with slavery or negroes."[3] The fact that Indiana could not escape political embroilment over slavery and race did not alter this majority sentiment. It was embodied in Article 13 of the new Constitution, which barred blacks from settling in the state. This Negro exclusion clause was adopted by a 93 to 40 vote at the convention and was ratified by the voters in 1851 by a larger vote than that given the main body of the document. William McKee Dunn represented a minority Whig viewpoint on the race question at the convention. Indeed, he was the only delegate from southern Indiana to vote against the exclusion clause. At a reunion of surviving delegates in 1885 Dunn spoke at length on the wonders wrought by the Constitution of 1851 for banking, education, and benevolent institutions. But Dunn began by touching on the catalytic issue of race. "In our form of government the will of the majority must rule, but it by no means follows that the majority is always right." Fortunately, Dunn concluded, a different majority in the 1860s had repealed exclusion and granted citizenship to blacks.[4] The story of how these changes were accomplished, and at what cost to the General Assembly, is the story of a legislative crisis that lasted until at least 1870.

The Race Issue to 1850

The Constitution of 1816 was ambivalent on race. It forbade slavery and stipulated that no amendment could ever validate the institution in Indiana. At the same time the document excluded "Negroes, Mulattoes and Indians" from the militia; it restricted the franchise to white, adult males; and it provided that

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[2] At least one newspaper called Indianapolis "Railroad City" as early as 1851. See correspondence from "Railroad City," Evansville *Daily Journal*, January 20, 24, 25, 27, 28, February 7, 11, 1851. The data on population, railroads, agriculture, cities, and manufacturing are drawn from Emma Lou Thornbrough, *Indiana in the Civil War Era, 1850-1880* (Indianapolis, 1965), see especially 362-403, 414-17, 536-96, and Clifton J. Phillips, *Indiana in Transition: The Emergence of an Industrial Commonwealth, 1880-1920* (Indianapolis, 1968), 361-67.

[3] Brookville *Indiana American*, November 8, 1850.

[4] "Remarks of General William McKee Dunn, Indianapolis, October 5, 1885, at the Reunion of the Surviving Members of the Indiana Constitutional Convention of 1850," 3, typescript in Indiana Division, Indiana State Library, Indianapolis. For the debate over Article 13 and its ratification, see Emma Lou Thornbrough, *The Negro in Indiana Before 1900: A Study of a Minority* (Indianapolis, 1957), 64-69.

legislative representation would be based upon white, adult, male inhabitants.[5] The general assemblies of the pioneer period manifested a similar ambivalence. They insisted repeatedly that Indiana should not admit slaves or slaveholders. But they also were consistently racist in the sense that a majority of lawmakers favored exclusion of blacks on grounds they were innately inferior to whites. Samuel Milroy, who served at the first Constitutional Convention and in eleven of the early sessions, spoke for this majority: "Posterity calls uppon [*sic*] us to oppose slavery or the admission of free black[s] into our state."[6] Thus, while it was politically safe to be against slavery, no one who sought a political career could be pro-black. Those who were met a fate similar to that of Representative Benjamin Henkle, one of the first lawmakers to be an avowed abolitionist. When Henkle returned to Lafayette after his one term at the 1834-1835 session, he had to fend off a mob that attacked him because of his racial views. "This event terminated his active political life . . . ."[7] In 1835 Henkle moved to Jasper County because it was safer for him there than in Lafayette. Stephen C. Stevens, "an outspoken abolitionist which at that time subjected him to great persecution," was another who suffered because of his pro-black views. On one occasion in the 1840s Stevens had to be smuggled through a window to deliver a lecture at Henry Ward Beecher's church in Indianapolis while a mob gathered at the entrance determined to stop his talk.[8]

Within the parameters of no slavery and no blacks, legislators could and did often disagree. For instance, when Congress admitted Missouri to the Union in 1820 as a slave state while banning slavery north of the 36° 30′ line, there was heated argument. Indiana's United States Senator Waller Taylor had voted for the Missouri Compromise and his vote touched off a protracted debate that resulted in his being censured by the General Assembly. The censure resolution carried 19 to 8 in the House after vigorous objections that it was unfair to Taylor because he had not been previously instructed on the matter by the legislature.[9] Lawmakers also disagreed on policy regarding fugitive slaves, on the feasibility of African colonization, on state laws regulating interracial marriages, and on testimony by blacks in courts.

Interestingly, the first time the issue of race arose in 1816 the first motion in the House was that the matter "be thrown under the table" (a move in effect not to receive the petition). This move, occasioned when M. E. Sumner of Tennessee proposed to free forty slaves and send them to Indiana, failed by a 6 to 21 vote. The speaker referred Sumner's letter to a committee, which rec-

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[5] Charles Kettleborough, *Constitution Making in Indiana* (3 vols., Indianapolis, 1916, 1930), 1:107-17 *passim*.

[6] Circular of Samuel Milroy, May 5, 1816, in Robert H. Milroy Papers, IHSL.

[7] Henkle file, Legislator, IHSL.

[8] Stevens file, *ibid.*

[9] *House Journal*, 1819-20, pp. 63, 76-78, 82-85, 91-92; protest of John N. Dunbar, 93-95; protest of John W. Maddox, 101-5; protest of William P. Thomasson, 147-49. See also Logan Esarey (ed.), *Messages and Papers of Jonathan Jennings, Ratliff Boon, William Hendricks* (Indianapolis, 1924), 90-96.

ommended that the House inform the petitioner "we rejoice that the Ruler of the Universe had bestowed on you a benevolent heart" but "sound policy forbids us to encourage your intentions." After a motion to indefinitely postpone the question lost, Amos Lane explained that while he "voted in favor of treating Mr. Sumner's letter with respect . . . I now vote in favor of . . . indefinite postponement . . . because I conceive it inexpedient to answer . . . ." The House then disposed of the matter by voting 18 to 8 that further consideration was inexpedient.[10]

Although no legislation respecting emigration into the state by free blacks passed until 1831, nearly every session considered proposals. These frequently originated with a House committee charged with regulating such emigration. One bill considered by this committee that did not pass would have required blacks to carry "a certificate of their freedom" or be subject to expulsion.[11] An act of 1831 that became law required blacks to post bond as a pledge of good behavior and a guarantee against becoming a public charge. Blacks who did not post bond could be expelled and persons who harbored such blacks could be fined.[12] A few lawmakers opposed the bill. Senator Daniel Worth sarcastically proposed an amendment that would require Negroes "to shew cause why they are *black*" instead of showing why they should not be deported. Worth's amendment, which reflected the abolitionist sentiment of his Quaker constituency in Randolph County, failed 8 to 13.[13] In subsequent years lawmakers who spoke against the bond were likely to have short careers. For example, Nathaniel Field voted for repeal at the 1838-1839 session and was physically attacked when he returned home to Jeffersonville. Field served only one term.[14]

The closest student of fugitive slave legislation in Indiana concluded that legislative actions in the early years defended the rights of the persons being claimed.[15] "An Act to prevent manstealing" passed at the first session. It fined persons who forcibly seized fugitives without first establishing a claim, spelled out arrest and trial procedures, and provided fines for those who gave false certificates of emancipation or encouraged slaves to desert their masters.[16] This act differed from the federal act of 1793 in that it required a warrant for the arrest of the alleged fugitive and a trial by jury. These differences led Kentucky to claim the Indiana statute was unconstitutional and by 1817 the two states were at odds over the measure. The dispute lasted several years as Kentuckians kidnapped blacks from Indiana while Governor Jonathan Jennings and the General

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[10] *House Journal*, 1816-17, pp. 33-35, 42-43, 44, 49.

[11] For a sampling of the proposals, see *ibid.*, 54-55; *ibid.*, 1817-18, pp. 38, 57, 59, 112; *ibid.*, 1818-19, p. 127; *ibid.*, 1820-21, p. 207; *ibid.*, 1821-22, pp. 81, 154-55; *ibid.*, 1822-23, p. 127; *Senate Journal*, 1817-18, pp. 75-76, 111.

[12] *House Journal*, 1830-31, pp. 247-49; *Laws* (revised), 1831, pp. 375-76.

[13] *Senate Journal*, 1830-31, p. 460. Emphasis in original.

[14] Field file, Legislator, IHSL. See Thornbrough, *The Negro in Indiana*, 55-63, for legislative policy regarding exclusion of blacks during the pioneer period.

[15] Emma Lou Thornbrough, "Indiana and Fugitive Slave Legislation," *Indiana Magazine of History*, 50 (1954), 218. This article contains citations to the relevant acts of the General Assembly.

[16] *House Journal*, 1816-17, p. 11; *Laws*, 1816-17, pp. 150-52.

Assembly demanded that Kentucky extradict persons accused of criminal acts.[17] An amendment to the act in 1819 stipulated that a person convicted of manstealing could be whipped as well as fined.[18] In 1820 the House impeached a justice of the peace in Jeffersonville on grounds that he acted "against the peace and dignity of the state of Indiana" by delivering a black man to Kentucky. Jacob Brookhart resigned rather than face almost certain conviction by the Senate.[19]

The revised code of 1824 made concessions that improved relations with Kentucky. A fugitive could now be arrested by the slaveholder without a warrant. A magistrate would then issue a certificate if the master's claim were established satisfactorily. If the alleged fugitive appealed the ruling, he had to pay the costs and give security.[20] Subsequent revisions retained this change that reflected "more the desire to preserve friendly relations with the South than interest in protecting the rights of persons claimed as fugitive slaves."[21]

The pioneer general assemblies passed several so-called "Black Laws" that discriminated against Negroes. One in 1818 specified that no Negro or mulatto could testify against a white man. Attempts to repeal the ban failed in 1836, 1847, and 1850 with the Senate judiciary committee recommending in the latter year that there be no action until after the new Constitution was ratified.[22] A law in 1818 prohibited mixed marriages but the prohibition was not included in the revised codes of 1824 and 1831.[23] In 1840, however, a bill "to prohibit the amalgamation of whites and blacks" was enacted; it provided fines and prison terms for persons attempting an interracial marriage. This law also provided fines for clerks who issued the licenses and for ministers or magistrates who performed the ceremonies. These provisions were retained in the revised code of 1852 under the second Constitution.[24] Although school laws made no mention of race until 1837, several laws after that date had the effect of barring blacks from the public schools.[25]

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[17] *House Journal*, 1819-20, pp. 306-10, 360-62; *ibid.*, 1820-21, pp. 55-56, 307-10; *ibid.*, 1822-23, pp. 311-12; *Senate Journal*, 1820-21, pp. 42, 220-24; *ibid.*, 1821-22, pp. 192-94; *ibid.*, 1822-23, p. 257. See also Thornbrough, "Indiana and Fugitive Slave Legislation," *IMH*, 50:209-14.

[18] *House Journal*, 1818-19, pp. 131, 181; *Laws*, 1818-19, p. 64.

[19] *Senate Journal*, 1820-21, p. IV in Appendix, State of Indiana versus Jacob Brookhart.

[20] *Laws* (revised), 1824, pp. 221-22.

[21] Thornbrough, "Indiana and Fugitive Slave Legislation," *IMH*, 50:218.

[22] *Laws*, 1817-18, pp. 39-40; *House Journal*, 1835-36, pp. 335, 453; *ibid.*, 1846-47, pp. 612-15; *ibid.*, 1849-50, pp. 443-45; *Senate Journal*, 1849-50, p. 151.

[23] *Senate Journal*, 1817-18, pp. 202-3; *House Journal*, 1817-18, pp. 233-38; *Laws*, 1817-18, p. 94. Under the statutory revision of 1824, Governor William Hendricks was authorized to require to be printed all statutes then in force. Chapter LXXV of Hendricks' *Revised Code* provided that "All statutes and parts of statutes which have not been passed or adopted by the present General Assembly, and which have not by this act been ordered to be reprinted . . . be and the same are hereby repealed." The *Revised Laws of 1831* contained essentially the same provision. The 1818 law prohibiting mixed marriages was not included in the printing of either revision. Therefore, after 1824 it was no longer a statute in force. See Indiana Legislative Council (comps. and eds.), "History of Official Indiana Statutes," *Indiana Code* (8 vols., Indianapolis, 1982), 1:xvii-xviii.

[24] *House Journal*, 1839-40, pp. 196-98; *Laws* (general), 1839-40, pp. 32-33; *ibid.* (revised), 1852, 2:422.

[25] *Laws* (general), 1836-37, p. 15; *ibid.* (general), 1840-41, p. 82; *ibid.* (revised), 1843, p. 320.

The Quakers in Wayne and Randolph counties offered the most sustained opposition to Indiana's race laws. The Richmond *Palladium* spelled out the Quaker position with a long editorial in 1849 headed "BLACK LAWS OF INDIANA." The first paragraph read:

> The proximity of the time for the annual meeting of the State Legislature suggests the inquiry as to what important measures will be brought before it for legislative action. Among other propositions and not the least important, will be the repeal of the Black Laws, which have so long disgraced our Statutes. The same proposition has from time to time, been heretofore presented, but that consideration has not been given to it, which it is worthy of; and as there is a diversity of opinion among the people themselves on this subject we propose to publish so much of the statutes referred to, as we regard objectionable.[26]

Blacks also made some efforts to help themselves. Meetings of the "colored citizens of Indiana" convened in 1842, 1847, and 1851 partially for the purpose of petitioning the legislature regarding the rights of black residents. The meeting in 1851 occurred on the eve of the election to accept or reject the 1851 Constitution and reminded any who would listen that blacks "as Americans . . . are entitled to all the rights, privileges, and immunities of citizenship."[27] Since there were less than 12,000 blacks in Indiana out of a total population of nearly one million, few voters and proportionately even fewer candidates for public office heard such pleas.

Politicians sought to reconcile their antislavery/antiblack sentiments by supporting the American Society for Colonizing the Free People of Color. This organization, popularly known as the American Colonization Society, was formed in 1816 in Washington, D.C., just as Indiana entered the Union. A committee of the House at the first session lost little time in approving the idea of the United States Congress supporting a plan to settle free blacks in Africa.[28] Legislative enthusiasm remained strong and during the fourth session a group met in the Senate chamber on the evening of January 20, 1820, to form an "Indiana Auxiliary" of the American Colonization Society. Governor Jonathan Jennings presided at the gathering that included at least eleven legislators plus the lieutenant governor, state treasurer, and state auditor. The group's constitution stipulated that annual meetings would be held in the state capital one week after each General Assembly convened. Speaker of the House Williamson Dunn was elected vice-president and members resolved to work for the abolition of slavery by every just means.[29]

The auxiliary became inactive after the capital was moved to Indianapolis. The legislature remained enthusiastic, however, concurring in a joint resolution

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[26] Richmond *Palladium*, November 21, 1849.

[27] Indianapolis *Indiana State Journal*, August 6, 1851.

[28] *House Journal*, 1816-17, p. 43. For the founding of the American Colonization Society, see Peter J. Staudenraus, *The African Colonization Movement, 1816-1865* (New York, 1961), 48-58.

[29] Corydon *Indiana Gazette*, January 20, February 3, 1820, in "Extracts from Corydon Newspapers, 1820 [*sic*]-1838," bound typescript in Indiana Division, ISL.

with the Ohio legislature in 1825 that Congress help with African colonization. In 1828 a second resolution passed asking the same thing.[30] The Indiana auxiliary was revived in 1829 with Supreme Court Judge Jesse L. Holman as president. In its statement of purpose the society defended colonization as a humane undertaking that would allow free states to escape "a flood of suspected and unwelcome population" should blacks ever be emancipated.[31] The auxiliary lagged until the late 1840s. In the 1850s, it made a persistent effort to interest black residents in colonization; their reluctance to relocate in Africa doomed the program despite generous support from state government.

The Race Issue in the 1850s

During the month before Indiana's second Constitutional Convention met, Congress enacted a new Fugitive Slave Law as part of the Compromise of 1850. This compromise was intended to quiet the furor over slavery; but because of the harshness of the law regarding runaway slaves it had the opposite effect, hastening instead a process of national division over race. In 1851 the radical abolitionist movement was revitalized; by 1853 the Whig party was dead. Soon abolitionists formed a major component of the new Republican party. In 1854 the Democratic party split over slavery in Kansas and began the disintegration that led to its loss of control of the national government in 1861. When Abraham Lincoln was inaugurated as a Republican president, civil war seemed the only recourse to settle differences between Americans over race. Throughout the decade, as Indiana adjusted to its new Constitution, the forces rending the nation asunder likewise rent the General Assembly.

Indiana began to make its race policy more harsh on October 7, 1850, when the convention opened. Since better than half (seventy-nine) of the 150 delegates had served previously in the legislature, a clear majority knew firsthand how to translate public sentiment into law. The partisan breakdown showed ninety-five Democrats and fifty-five Whigs or Whigs-Free Soilers, a proportion in keeping with the ascendancy of the Democracy in state politics. Article 13, adopted almost unanimously by the majority, barred free Negroes or mulattoes from coming into or settling in Indiana. The article declared void any contract contrary to this exclusion and provided fines for anyone who employed blacks or encouraged them to remain in the state. The fines were to be set apart as a fund to encourage blacks already in Indiana to emigrate to Africa. The article concluded that "The General Assembly shall pass laws" to carry out these provisions.[32]

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[30] *Laws*, 1825, pp. 105-6; *ibid.*, 1828-29, pp. 153-54.

[31] Thornbrough, *The Negro in Indiana*, 75.

[32] Kettleborough, *Constitution Making in Indiana*, 1:360-63. Indiana, Illinois, and Oregon were the only three free states to incorporate exclusion clauses in their constitutions. Leon F. Litwack, *North of Slavery: The Negro in the Free States, 1790-1860* (Chicago, 1961), 70-71. For the placement of Indiana's black laws in the context of other free states, see Eugene H. Berwanger, *The Frontier Against Slavery: Western Anti-Negro Prejudice and the Slavery Extension Controversy* (Urbana, Ill., 1967).

The 36th General Assembly was the first to pass laws carrying out the provisions. It was also the longest legislature ever, running from December 1, 1851, to March 10, 1852, then reconvening April 20 and running until June 21, 1852. The task of implementing the Constitution caused the introduction of 560 bills plus innumerable resolutions, reports, and propositions. Speaker of the House William H. English stated that many of the bills involved questions of great importance and required more or less consideration. Some 270 bills emerged from this mass to become law and few were of greater moment than House Bill No. 45, an act to implement exclusion. The bill passed handily but passage did not quiet the question.[33] Rather, like a specter, exclusion and its corollaries—colonization, education, testifying in courts, and interracial marriage—haunted subsequent sessions during the decade.

The Democratic organ in Indianapolis exemplified that party's stand. In 1851, while the convention sat, the *State Sentinel* endorsed exclusion so that the state would not be "overrun with . . . [a] miserable population."[34] During the long session of 1851-1852 this newspaper called on the legislature to support colonization for free blacks. "*They must go*," the paper proclaimed, adding that such an outlook did not indicate "prejudice . . . against the blacks. There is a kind feeling and deep sympathy for them."[35] When the long session moved to implement exclusion by law, at least one Democrat cast a racist vote contrary to his conscience. Senator James S. Hester of Brown County stated publicly that "All laws which forbid the providing of lodging for the weary, food for the hungry, and clothes for the naked, are inhuman, and will . . . be inoperative in enlightened communities." Hester nonetheless voted for exclusion because he believed a majority of his constituents wanted it.[36] A Whig newspaper in Madison, distraught at the stance of lawmakers such as Hester, denounced the long session in these terms:

> There seems to be a determined and studied prejudice, against those unfortunate citizens who have a black skin, in the Legislature of this State at the present time. Constitutional privileges and natural rights—to say nothing of human sympathy—seem to be but feeble barriers when opposed to this prejudice. Some of these gentlemen are evidently courting popularity under the false impression, that public sentiment is as insane and inhuman as they will, doubtless, succeed in proving themselves to be.[37]

Lawmakers who both spoke and voted against racism in the early 1850s were almost always Whigs. Their state organ, the *Indiana State Journal*, urged defeat of Article 13 because exclusion was "contrary to the spirit which should characterize the Christian age in which we live."[38] Whig delegates at the convention

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[33] For English's comments, see *House Journal*, 1851-52, pp. 2208-10. The exclusion act passed the House by a 53 to 26 vote on May 11, 1852, and in the Senate by a 31 to 14 margin on June 1. *Ibid.*, 1499, 1504-6, 1576-78, 1585; *Senate Journal*, 1851-52, pp. 1003-5, 1135, 1146.

[34] Indianapolis *Indiana State Sentinel*, February 22, 1851.

[35] *Ibid.*, January 29, 1852. Emphasis in original.

[36] *Ibid.*

[37] Madison *Daily Banner*, January 14, 1852.

[38] Indianapolis *Indiana State Journal*, February 19, 1851.

who opposed exclusion included Henry G. Todd, who saw the ban as "unjust and oppressive"; Edward R. May, a "lone star, for the reason that he was the only member of the Convention openly favoring negro suffrage"; Isaac Kinley, Jr., an "extreme radical" who voted against "every proposition proposing unequal restraints or burdens on citizens . . . "; and Milton Gregg, who got into an animated debate when he moved to substitute the bill of rights from the 1816 Constitution for Article 13.[39] Representative Abram W. Hendricks of Jefferson County advocated letting blacks testify in courts, although "such a course practically amounted to political suicide." Hendricks, a Whig, served only at the 1853 session, during the same year that his party died nationally and in Indiana.[40]

Democrats dominated the 1853 and 1857 sessions; in 1855 and 1859 they were sufficiently numerous to block repeal of exclusion. Beginning in 1853 adamantly abolitionist Quakers presented petitions biennially against Article 13.[41] In 1857 Quakers went a step farther and had Representative Silas Colgrove introduce a petition from black citizens of Randolph County. Colgrove's petitioners called for repeal of all racist laws because the Declaration of Independence said that all men are created equal. They pleaded with the General Assembly to give blacks "all the political rights now guarantied [*sic*] to the white American citizens."[42] John Brazelton of Jefferson County, a non-Quaker with a non-Quaker constituency, resolved to repeal Article 13 in 1855 but the House rejected his motion by a 43 to 35 margin.[43] Isaac Kinley, Jr., of Henry County, led the anti-exclusion forces in the Senate late in the decade. At the 1857 session he resorted to satire to kill a bill that would strengthen enforcement: "Any negro . . . who shall . . . transfer himself from one place to another . . . shall, without trial or delay be hung by the neck to the nearest tree, until he is stone dead." The bill was engrossed with Kinley's amendment and failed 16 to 26 on third reading.[44] When a similar bill was considered in 1859 Kinley moved that all laws "giving color to the idea that man has rights in consequence of his humanity, be and the same is hereby repealed." After Kinley's move, the enforcement bill was tabled.[45]

While most Democrats remained racists, a few like Representative John F. Brothwell quit the party when it proposed in 1853 to encourage African colonization by prohibiting blacks to acquire real estate. Brothwell said there was a simpler way to discourage black settlement: empower county commissioners to pay a bounty of $5 "for each and every negro scalp that shall be presented to them . . . ."[46] In 1854 Brothwell won reelection from Noble County as a Fusionist; by 1856 he had joined the Republican party.

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[39] Todd, May, and Kinley files, Legislator, IHSL; for Gregg's motion, Indianapolis *Indiana State Journal*, November 16, 1850.

[40] Hendricks' obituary, Indianapolis *News*, November 26, 1887.

[41] *House Journal*, 1853, pp. 955-56.

[42] *Ibid.*, 1857, p. 480. Colgrove's petition was tabled 51 to 37.

[43] *Ibid.*, 1855, p. 785.

[44] *Senate Journal*, 1857, pp. 339, 352-53.

[45] *Ibid.*, 1859, pp. 943-44.

[46] *House Journal*, 1853, p. 387.

Throughout the 1850s a majority of Indiana's politicians continued to use African colonization as a palliative to salve their consciences about racism. Governor Joseph A. Wright summarized the thinking succinctly in his biennial message of 1855: "The scheme . . . is practicable, and no enterprise of the age holds out greater promise of good to the colored race."[47] An antislavery coalition that outnumbered Democrats 60 to 40 in the House in 1855 offered the most serious opposition of the decade to the race laws. This coalition charged that sending free blacks to Africa was a scheme that "originated in the basest motives and from the most mercenary considerations." These Fusionists, as they were called, urged that blacks should be educated in Indiana instead of colonized in Africa.[48]

As a general rule, however, majorities in both houses showed a consistent preference for colonization. At the long session of 1851-1852 an act designated the governor, auditor, and secretary of state as the state Board of Colonization. The bill also appropriated $5,000 to establish an Indiana colony in Africa and pay emigrants $50 each to cover expenses of the voyage. Soon the Indiana auxiliary became the Indiana Colonization Society with an agent, a black minister named James Mitchell, who drew his salary from the state fund. Subsequent appropriations increased the money to $15,000 and Mitchell submitted elaborate, detailed reports to sessions throughout the decade.[49] Blacks for the most part ignored the board although it kept a secretary until 1865. The ultimate irrelevance of colonization was shown by the fact that not a single application for emigration was received after 1856.[50]

Legislation regarding race clearly proposed to make Indiana a state without a black population by forbidding additional settlement and encouraging blacks already in the state to resettle in Africa. Antiblack laws barred black children from public schools, forbade blacks to testify in courts, and provided stringent penalties for miscegenation. As a result, black population increased by only 166 persons during the decade.[51]

The school law of 1852 intended to exclude black children from common schools but the provision was omitted because of an error by the enrolling clerk.[52] This error was rectified in 1855 by a law that expressly excluded the property of blacks from being assessed for school purposes and their children from being

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[47] *Ibid.*, 1855, p. 30.

[48] *Ibid.*, 885-89, quotation, 886.

[49] The work of the board was summarized in a report from the House committee on public expenditures, *ibid.*, 1859, pp. 278-81. For three of Mitchell's reports, see *Documentary Journal*, 1852, Part 2:393-406; *ibid.*, 1854, Part 2:801-15; and *House Journal*, 1857, pp. 485-96.

[50] Thornbrough, *The Negro in Indiana*, 89. Thornbrough's Chapter 3, "Exclusion and Colonization Movements," 55-91, has further details.

[51] In 1850 there were 11,262 blacks in Indiana; in 1860, 11,428. John D. Barnhart and Donald F. Carmony, *Indiana: From Frontier to Industrial Commonwealth* (4 vols., New York, 1954), 1:414-15, 2:13.

[52] *House Journal*, 1851-52, pp. 1687-1701; *Laws* (revised), 1852, 1:439-56. The clerk's error was discovered by the House education committee in 1853. *House Journal*, 1853, p. 662.

enumerated or considered beneficiaries of school laws.[53] A black spokesman, Samuel Smothers, wrote in 1860 that the most deplorable feature of Indiana's black laws was the shutting off of the race from public schools. Smothers said that this ban left blacks "entirely without the means of education" as far as the state was concerned.[54]

The plight of legislators who wanted to include blacks in the schools was spelled out in 1853 by Democrat John C. Walker of La Porte County. Walker chaired the committee that discovered the omission in the 1852 school law. His report pointed out the error and criticized committees that recommended measures "under the fallacious pretense of . . . promoting . . . colonization." Measures should be recommended because they were right, said Walker, and it was right that black children should attend schools. Walker concluded that his committee would have so recommended "but for the fact that a resolution instructing them to this effect was . . . overwhelmingly voted down by this House."[55] In 1855, when Democrats were outnumbered in the House three to two, the best that advocates of education for blacks could do was formally protest their continued exclusion from the schools.[56]

Although the Constitutional Convention considered but did not pass an article forbidding blacks to testify against whites, a law that prohibited such testimony passed in 1853 after the General Assembly defined a Negro as any person with one-eighth Negro blood. William G. Spencer, a Democrat who served one term from Adams County, protested to no avail that the law would "oppress and infringe upon the rights of . . . unfortunate citizens . . . ."[57] An effort to repeal the act failed in 1855, and the ban remained in effect throughout the decade.[58] The last efforts to modify Indiana's black laws in the 1850s came in 1858 and 1859. When a Quaker petition to repeal the ban on testimony was introduced at the special session of 1858, Democrat David S. Gooding of Hancock County moved its referral to the Republican-controlled Senate judiciary committee. Gooding said he wanted to know if Republicans favored "negro equality, negro testimony and all that kind of a thing." The petition was tabled without reference to any committee.[59] William C. Jefferis of Wayne County resubmitted the petition at the 1859 session and urged repeal of a law that caused "many of the greatest rascals" to go "unwhipped of justice . . . ."[60] When a bill to repeal came up in the Senate, Republican Othniel Beeson (Wayne County) admitted candidly that "I am opposed to amalgamation and negro equality in every sense of the

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[53] *Laws*, 1855, p. 161.

[54] Thornbrough, *The Negro in Indiana*, 181.

[55] *House Journal*, 1853, pp. 660-66, quotations, 662-63.

[56] Protest by William Smith and John Brazelton, *ibid.*, 1855, pp. 692-93.

[57] *House Journal*, 1853, p. 262. For the route of the bill in the House, see *ibid.*, 281-82, 514-17.

[58] *Ibid.*, 1855, p. 660.

[59] Ariel and William Drapier (comps.), *Brevier Legislative Reports* (Indianapolis, 1858-1887), 1858 (s.s.), 85; *Senate Journal*, 1858 (s.s.), 138.

[60] *Brevier*, 1859, p. 127; *House Journal*, 1859, pp. 355-56. The vote was 65 to 20 against repeal.

word . . . ." Beeson nevertheless endorsed repeal so that miscegenation laws could be enforced. He stressed that repeal would allow black women to testify against any white man who "to gratify his lust, disgraces his own race . . . ." The Senate rejected repeal by a 28 to 10 margin.[61]

From Exclusion to Citizenship, 1861 to 1869

The 1861 General Assembly convened on January 10 during the interregnum between Abraham Lincoln's election and inauguration. Some southern states had already seceded; others did so while the assembly met. With civil war a distinct possibility lawmakers were aware of meeting in an unparalleled crisis. Thus, although Republicans dominated both houses, there was less partisanship than usual, especially on the race issue. Republican Representative Richard M. Nebeker (Warren County) gave crude voice to the prevailing mood: "Mr. NEBECKER desired to keep this eternal nigger question out . . . he wanted to stop its discussion here."[62] Most controversial resolutions and proposals on the question were dismissed or tabled during the regular session.[63] After Fort Sumter was fired upon, Governor Oliver P. Morton called a special session which convened on April 24. Race remained subordinate as most members of both parties focused on fighting the war. A proposed "amalgamation evidence bill"—a bill to prevent white persons who married Negroes from testifying in cases where other white persons or the state were a party—threatened to renew the animosities. But Speaker Cyrus M. Allen squelched the matter when he proposed, amidst laughter, an amendment stipulating that a white man marrying a black woman could not testify in a case where a Negro was a party. The bill was referred to the House judiciary committee, which never reported on it.[64]

The course of the war ensured that legislative calm would be shattered at the 1863 session. The Union cause did not fare well during the spring and summer of 1862, leading President Lincoln to issue his preliminary Emancipation Proclamation in September. The president's action, supported by the Republican party in Indiana, led Democrats to an overwhelming victory in the fall state elections. Democrats claimed that emancipation converted the war from a constitutional conflict to save the Union to an unconstitutional crusade to free the slaves. They claimed further that Indiana would be overrun by a horde of undesirable freed people unless Republicans were deterred from emancipation. Voters responded by giving Democrats a 28 to 22 majority in the state Senate and a 59 to 41 majority in the House. When Lincoln made emancipation official on New Year's Day, 1863, Democrats concluded they must fight to the death against Republican "despotism" on both the state and federal levels.[65]

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[61] *Brevier*, 1859, p. 268; *Senate Journal*, 1859, pp. 420-22, 820-23.

[62] *Brevier*, 1861, p. 47.

[63] For examples, see *House Journal*, 1861, pp. 106, 159, 188.

[64] *Ibid.*, 1861 (s.s.), 162. For Speaker Allen's remarks, *Brevier*, 1861 (s.s.), 110.

[65] Democrats also made spectacular gains in other states of the Midwest in the 1862 elections. V. Jacque Voegeli, *Free But Not Equal: The Midwest and the Negro During the Civil War* (Chicago, 1967), 52-67, shows that race was decisive in determining Democratic behavior throughout the war in Ohio, Indiana, Illinois, Iowa, Minnesota, Wisconsin, and Michigan.

The ensuing session was marked by the most bitter struggle between an executive and the legislature in the state's history.[66] Race played a significant role in the struggle. Democrats introduced no less than seven bills to strengthen Article 13 of the state Constitution. Of these, only House Bill No. 11 reached the amendment stage. This bill, one of the most extreme race measures ever considered by the General Assembly, would have required clerks of circuit courts to maintain a "register of negroes and mulattoes"; any blacks who could not prove they were inhabitants prior to November 1, 1851, would be expelled. When reported in the House, the bill was ordered engrossed despite a minority move to table on grounds the measure was "inexpedient and improper." The bill never passed the House.[67] In the Senate Republicans denounced a similar bill because it "strikes at the fundamental principles of the Christian religion . . . which we all profess." Republican Benjamin F. Claypool (Fayette County) was outraged that the Senate would even consider a measure he said was modeled after the dog law but applicable to human beings. Claypool therefore moved an amendment: "That it shall be lawful to kill any . . . negro or mulatto found in this State after the first day of July . . . who shall not be licensed under the provisions of this act."[68] Claypool's amendment was rejected and, although the bill passed the Senate, it was received by the House late in the session and the legislature adjourned before final action was possible.

The General Assembly did not meet again until 1865. Republicans controlled the House by fourteen votes while the parties were tied in the Senate. The war was in its final months and it was clear that the Union would crush the Confederacy and the slaves would be free. The General Assembly faced the implications of the Union victory and the subsequent granting of citizenship and civil rights to blacks during three regular and two special sessions between 1865 and 1869. Each session was dominated by the Republican party and the Democratic opposition proved so intractable that it nearly destroyed representative government in the state.

In such a context, it was inevitable that there would be moves to modify the state's black laws. Representative Bartlett Woods, a Republican from Lake County, explained graphically in 1865 what lawmakers had done to the black man:

> You compel him to live in a state of concubinage and declare all his offspring illegitimate; you refuse to allow him to testify in courts—[he] has no protection for his property—an outlaw—himself an adulterer, his wife a concubine and his children bastards—he is as far as you can make him a slave.

Woods' assessment accurately defined the status of blacks in Indiana based upon state law as interpreted by the courts.[69] Pleas such as those by Representative

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[66] For the particulars of the struggle between Governor Morton and the 1863 General Assembly, see below, pp. 208-11.

[67] *House Journal*, 1863, pp. 588-92.

[68] *Brevier*, 1863, pp. 197, 202.

[69] *Brevier*, 1865 (s.s.), 287. In 1854 a black man who had lived in the state for ten years

Woods went for naught during the regular and special sessions of 1865. In the closing days of the regular session the Thirteenth Amendment to the United States Constitution, abolishing slavery and involuntary servitude, was ratified by the General Assembly.[70] But bills to repeal Article 13 and acts related to its enforcement, as well as bills to lift the ban on testimony by blacks, all failed to pass.[71]

By November 13, 1865, when the special session opened, ratification of the Thirteenth Amendment by the requisite number of states was a certainty and the General Assembly had to deal with the inevitable repeal of Article 13 and its supporting legislation. Representative James Harrison of Shelby County articulated the sentiments of the Democratic minority against repeal. Harrison said that "the industrious German and Irish emigrant" would not settle in Indiana if they knew that blacks lived in the state; these desirable population groups would be driven off by a "vagabond population."[72] Even some Republicans who favored repeal spoke of continuing white supremacy. "My *taste* decides always in favor of the society of the white man and the white woman . . . ," said Representative Francis P. Griffith of LaGrange County. He added that admission of blacks would not lead to their voting because "possession of social domicile does not carry with it political domicile, unless afterwards given by the State to which the party may emigrate."[73] A bill to effect repeal passed the House but the Senate failed to engross it.[74]

The Democratic platform in March, 1866, affirmed that Democrats opposed the entry of Negroes into Indiana "now, more than ever." In May the state Supreme Court held Article 13 void because it conflicted with federal civil rights legislation.[75] The court decision convinced Democrats that repeal of legislation supporting Article 13 would lead to citizenship and the franchise for blacks. They were especially fearful of black votes cast as a bloc against Democrats. The party organ in Indianapolis resorted to gross crudity during the fall campaign with a poem entitled "Negro Suffrage":

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married a Negro resident of Ohio and the couple settled in Rising Sun. In 1856 the Indiana Supreme Court upheld the man's conviction in Ohio County for entering into a contract illegally and encouraging a Negro to remain in the state. The court said marriage was only a civil contract and the defendant must be considered as any other person who encouraged a Negro woman to remain in the state. The court also said the woman was likewise liable for entering the state unlawfully to settle. See *Barkshire* v. *The State*, 7 Ind. 389-91.

[70] *Laws*, 1865, p. 135.

[71] For action on Article 13 in both houses at the regular session, see Kettleborough, *Constitution Making in Indiana*, 2:57-58; for action on repeal of enforcement legislation, *Brevier*, 1865, pp. 218-19; for failure of action to repeal the ban on black testimony, *ibid.*, 122.

[72] *Brevier*, 1865 (s.s.), 95.

[73] *Ibid.*, 279-82, quotations, 279, 281. Emphasis in original.

[74] *Senate Journal*, 1865 (s.s.), 316.

[75] Indianapolis *Indiana Journal*, March 16, 1866; *Smith* v. *Moody and Others*, 26 Ind. 299-307.

Chalk and ivory! Heels and shins!
Sambo's glory now begins!
Go way white man! You don't know
How to vote right—dat is so!
Yaw, yaw, yaw—yaw, yaw, yaw!
De happiest day I ebersaw!
Whar's de ticket? Fetch him straight—
I votes early—I votes late—
I votes often—I votes right—
I'se no ignoramus white—
Man and brudder—equal born—
De Maker's image (in a horn!)
De glory of de risin' day—
De culled cuss from Africa!
Oh, kinky, minky, stinky, oh!
If dis ain't glory, tell me so![76]

When Republicans won both houses in the fall state elections, repeal of the laws that supported exclusion was assured. The minority resurrected all of the old white supremacy and nullification arguments—"the government of our State was made by and for the use of the white race" and "we utterly deny that the act of Congress can have any force or effect in this State"—to no avail. On February 22, 1867, the exclusion act of June 18, 1852, was repealed. Lawmakers had already granted citizenship to blacks when they helped ratify the Fourteenth Amendment to the United States Constitution. Democrats warned that black suffrage was the inevitable next step, and after that would come miscegenation and all of its concomitant evils.[77]

Repeal of exclusion was only one step—albeit an important one—in the crumbling of Indiana's antiblack laws in the late 1860s. The legislature also eliminated the ban on testimony and provided that black children should have their own schools. In 1865 Senator Thomas Ward of Randolph County introduced a Senate resolution eliminating all distinctions as to color or blood in the giving of testimony. Ward's resolution became law.[78] The Democratic party contested each step bitterly. Representative Peter Keiser of Allen County showed just how bitter Democrats could become when he tired of Republican arguments in 1867 for admitting blacks to schools. Allen moved that the state capital be transferred to Fort Wayne so the State House could be "used as an institute for a State Normal School for colored people."[79] The school law was not changed until 1869 because many Republicans agreed with Senator Samuel P. Oyler of Johnson

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[76] Indianapolis *Daily Herald*, October 6, 1866.

[77] For quotations, see remarks of Jacob F. Bird, *Brevier*, 1867, pp. 226-27; for the Democratic attitude, see minority report, *House Journal*, 1867, p. 291. See also *Laws*, 1867, p. 233, and Kettleborough, *Constitution Making in Indiana*, 2:78-79.

[78] *Senate Journal*, 1865 (s.s.), 78, 412-17; *House Journal*, 1865 (s.s.), 531, 690-91; *Laws*, 1865 (s.s.), 167.

[79] *House Journal*, 1867, p. 416.

County who said: "While I am about as black an abolitionist as any gentleman in this chamber, I am not in favor of placing the races together in the public schools."[80]

Democrats lost such Republican support when the school question became intertwined with the debate over the Fifteenth Amendment during the regular and special sessions in 1869. Democrats argued that since the Negroes could not vote, neither they nor their children could be educated in common schools. Senator John V. Hadley of Hendricks County squelched this argument with a pointed observation:

> I would like to remind . . . that there is another large and responsible portion of society which has not the right to vote. . . . I refer to females—and will the gentleman follow up his argument with a similar one: that white females nor their children shall be educated in the common schools? One argument is just as logical as the other.[81]

"An Act to render taxation for Common School purposes uniform and to provide for the education of the colored children of the State" passed at the special session called in 1869. While Democrats concentrated on defeating the ratification of the Fifteenth Amendment, this act providing separate schools for black children became law.[82]

The proposed amendment raised black enfranchisement from possibility to surety because it said the right to vote could not be abridged by the United States or any state on account of race, color, or previous condition of servitude. Thus, Democrats attempted to paralyze the legislative process rather than acquiesce in ratification. The party's determined campaign against black suffrage had begun in 1867 with resolutions affirming states' rights and denouncing Congress for giving the vote to blacks in Washington, D.C. Such resolutions were referred to the committee on federal relations and the Republican majority saw that no more was heard of them.[83] When the question came to the point of resolution in 1869, and Democrats felt they would lose, they resigned *en masse* to prevent a quorum. Republicans proceeded to ratify the amendment by themselves, and although their action was of doubtful legality, Indiana's black citizens became voters as a result.[84]

From Citizenship to Participation, 1870 to 1900

Indiana's race laws were consistent from the beginning in keeping the black population in a subordinate status. When race became the dominant political

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[80] *Brevier*, 1867, p. 109. For the debate over schools, *ibid.*, 109-10, 381-82.

[81] *Ibid.*, 1869, p. 511.

[82] *Laws*, 1869 (s.s.), 41. For a sampling of the debate over schools, *Brevier*, 1869, pp. 193-94, 340-42, 490-96, 506-12, 533, 583.

[83] *House Journal*, 1867, pp. 75, 1202-3; *Senate Journal*, 1867, pp. 972-74.

[84] William Christian Gerichs, "The Ratification of the Fifteenth Amendment in Indiana," *IMH*, 9 (1913), 137-66. Gerichs concluded (p. 166): "Viewing the question in the light of the spirit of the law, I should say that the Fifteenth Amendment was legally passed by the General Assembly of Indiana. If we apply the letter of the law . . . I should say that the Fifteenth Amendment was never ratified by the General Assembly of Indiana." For the struggle over ratification, see below, p. 193. For the attainment of citizenship and suffrage by black citizens, see Thornbrough, *The Negro in Indiana*, 231-50.

and social issue of the nation, the state legislature engaged in a policy of obstructing the cause of racial equality. True, the 1860s ended with Indiana's blacks achieving citizenship and the vote, but this resulted far more from federal actions than from the state's legislative process. Indeed, to the extent that blacks made gains they did so in spite of, not because of, the General Assembly. The situation did not change in outward appearances for many years after 1869. The closest student of the subject has pointed out that racial distinctions remained in the state Constitution for decades, partly from indifference and partly because of the difficulty of amendment. For example, the word "white" was not deleted from the militia section until 1936. The miscegenation laws also remained on the books until the twentieth century and blacks tended to be excluded from jury service.[85] But after 1869 race did cease to be the dominant issue in the legislature and blacks did have the vote. Thus armed, they advanced, if ever so slowly, toward equality.

Blacks rightly credited the Republican party for their advance and they usually voted the Republican ticket until the mid-1920s.[86] Republicans cultivated the new voters assiduously until the end of the nineteenth century and painted Democrats as racists. For example, when Democrats moved at the 1871 session to declare ratification of the Fifteenth Amendment null and void, Republicans countered by moving to strike the word "white" from the enumeration law. Representative Oliver M. Wilson of Marion County sponsored the bill and said Republicans did not advocate favored treatment for blacks, only equal treatment: "I say to the negro if you can outstrip me in the race of life, possessing alike as we do the common attributes, and endowed alike by the Creator—then God speed you." Wilson's bill lost, but so did the majority attempt to void the Fifteenth Amendment.[87]

At the 1873 session Senator William C. Thompson of Indianapolis, a physician who broke with the Democratic party in 1854, introduced a bill to repeal the miscegenation act. Thompson said black citizens deserved to have the act repealed because "their arteries circulate as generous blood as ever coursed through kings or senators." His remark riled the opposition and the bill only advanced to a second reading where it was ordered engrossed.[88] In 1879 a Republican bill proposing to improve black schools—"we should give this race an equal opportunity for education"—passed the House but was tabled in the Senate.[89] Some blacks wanted more by the 1880s and demanded political recognition and a share of the spoils. For example, black voters in Howard County held a meeting in 1892 and demanded that the Republicans recognize their importance by nominating

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[85] For how blacks fared under "equal protection of the laws," see Thornbrough, *The Negro in Indiana*, 248-87.

[86] The black vote proved decisive as early as 1870 in Hancock County when Jeremiah M. Wilson defeated David S. Gooding in a tight race for Congress because "for the first time, the colored vote of about 800" was added to the Republican total. Gooding file, Legislator, IHSL.

[87] *Brevier*, 1871, pp. 519-20.

[88] *Ibid.*, 1873, pp. 412-13; *Senate Journal*, 1873, p. 885.

[89] *Brevier*, 1879, p. 222; *Senate Journal*, 1879 (s.s.), 892.

a black man for state representative. As a result, the Reverend Richard Bassett was endorsed for nomination "by a clear majority" and elected to serve at the 1893 session.[90] Between 1880 and 1896 four blacks were elected to the General Assembly as Republicans; at least three others were nominated but defeated.[91] By 1900 Republicans no longer needed the solid black vote to carry the state. One result was that a black did not sit again in the General Assembly until 1933 and he was elected as a Democrat.

James S. Hinton was elected to the House in 1880 after a quarter century of activism on behalf of securing rights for Indiana's black citizens. He arrived in the state about 1848 and moved to Indianapolis before 1860. In 1856, in company with John G. Britton, Hinton formed a state Grand Lodge for black Freemasons. Later he served twelve years as state Grand Master.[92] Hinton became a Republican shortly after settling in Indianapolis and campaigned for his party in Indiana and elsewhere. He was a contingent presidential elector in 1872. The following year he was named a commissioner for the Wabash and Erie Canal—the first black man to be appointed to office by the General Assembly. He served in this capacity until 1875.

Hinton entered the legislature as a well-respected spokesman for his party and race. His presence was felt early in the session as the House debated the merits of compulsory education. George H. D. Gibson, a Democrat from Clark County, opposed one section of a proposed bill because he said it would mix the races in the schools. "Trace the history of the [black] race from Ham down, and you will not find one that has written a book," said Gibson. William J. Johnson of Jefferson County was on his feet immediately because "as a Republican, it is my duty to say something in regard to the slur passed upon the colored voters . . . ." Johnson reminded Gibson that there was a black man "on this floor . . . who is the peer of any man here."[93]

Surprisingly, Hinton did almost nothing for blacks during his term. In fact, his only motion pertaining to blacks sought permission for a female graduate of Wilberforce University to deliver an evening lecture in the House chamber. The House rejected the motion. Late in the session, Hinton did influence the speaker to appoint the first black page.[94] When Hinton sought renomination at the 1882 Marion County Republican convention he was defeated by another black man, Dr. Samuel A. Elbert. Elbert then lost the general election.[95] Hinton remained active in the party until stricken on November 5, 1892, while delivering

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[90] See obituary of Richard Bassett, Kokomo *Daily Tribune*, February 21, 1905.

[91] The three who lost were Dr. Samuel A. Elbert (1882), William W. Walden (1888), and William D. McCoy (1890). Each ran for the House from Marion County. See Ronald D. Snell, "Indiana's Black Representatives: The Rhetoric of the Black Republican Legislators from 1880 to 1896" (Ph.D. dissertation, Indiana University, 1972), 47-49.

[92] William H. Grimshaw, *Official History of Freemasonry Among the Colored People in North America* (New York, 1903), 214-15.

[93] *Brevier*, 1881, p. 149.

[94] *House Journal*, 1881, pp. 13, 78-79, 1579; Snell, "Indiana's Black Representatives," 78.

[95] Indianapolis *Journal*, August 21, 1882.

an election eve speech in Brazil, Indiana, for the Republican ticket. He died the following morning.[96]

The Reverend James M. Townsend was a school teacher and minister of the African Methodist Episcopal Church in Richmond before he announced for the House in 1884. He defeated four rivals for nomination at the Wayne County Republican convention in March and was elected the following November. When he arrived at the House in January, 1885, he "bypassed vacant chairs at the back of the hall . . . and claimed a front row seat."[97] Within a week Townsend established himself as the first black champion of black causes in the legislature. He introduced one bill to prevent segregation in public libraries and another to abolish all distinctions of race made in state laws.[98]

The judiciary committee reported favorably on Townsend's civil rights bill and members voted to make it a special order on March 2. Townsend asked to be heard at that time on the only measure he desired to speak upon at any length. At the appointed hour, as black citizens crowded the galleries, lobby, and aisles, the Democratic controlled House took up other business in order to prevent Townsend from speaking. Townsend rose and demanded to know "if I have any rights and privileges as a member." Then this man whom the press described as a handsome, light mulatto with a full mustache spoke for an hour "championing the rights of his race." The Republican Indianapolis *Journal* noted sarcastically that he possessed more ability than "the average Democratic member" and loud applause interrupted his speech twice before the speaker announced he would clear the galleries and lobby if any further disturbances occurred.[99] Despite Townsend's advocacy, his civil rights bill fell before a weaker Senate bill to end discrimination in public places that passed both houses. It did not change the marriage or militia laws.[100]

After the session Townsend returned to Richmond and did not seek re-election. In 1888 he campaigned throughout Indiana for Benjamin Harrison and the state ticket. In 1889 Harrison appointed Townsend a recorder of the General Land Office in Washington, D.C., and the press noted: "The selection of a representative colored man for this place shows that the President is not forgetting the colored Republicans."[101] In the 1890s Townsend began a series of moves which took him to pastorates in Illinois, Ohio, and Pennsylvania before he returned to Richmond where he died on June 17, 1913.[102]

Richard Bassett, a Baptist minister, won nomination in a primary election in safely Republican Howard County in 1892. He defeated two white rivals in

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[96] *Ibid.*, November 7, 1892. For biographical information on Hinton, see Snell, "Indiana's Black Representatives," 50-83.

[97] Snell, "Indiana's Black Representatives," 86.

[98] *House Journal*, 1885, pp. 137-38.

[99] *Ibid.*, 913, 974; Indianapolis *Journal*, March 3, 1885; *Brevier*, 1885, pp. 282-84.

[100] *Laws*, 1885, pp. 76-77.

[101] Townsend file, Legislator, IHSL.

[102] Richmond *Palladium and Sun-Telegram*, June 18, 1913. For biographical information on Townsend, see Snell, "Indiana's Black Representatives," 86-139.

a county with less than 200 black voters.[103] At the ensuing session he was known as a passive member who introduced no legislation and held only minor committee assignments. Bassett fell out with his constituents when he voted for a bill that would have allowed gas companies to control supply and discontinue service to customers.[104] He remained unpopular after the session and never ran for another office. The Negro newspaper in Indianapolis offered a black evaluation of Bassett: he was "entirely out of his sphere, and quite useless in the exciting whirl of practical work-a-day politics."[105]

Gabriel L. Jones was born into slavery in Tennessee in 1858 and moved to Indianapolis in 1875. After graduating from a normal school in the capital city he taught for several years and became an active Republican. Jones was appointed an exciseman for the Internal Revenue Service in 1890 and from 1895 to 1897 he served as Marion County deputy recorder. After election to the House in 1896 Jones introduced only one bill at the 1897 session that applied specifically to blacks. It would have given white and black children equal access to educational facilities and ended segregated schools. But before the House passed the bill it was amended to allow blacks in white schools only if there were no black schools within a district. The bill was indefinitely postponed in the Senate.[106] The only other item of note for Jones' legislative career was his seconding the nomination of Charles W. Fairbanks for United States senator. After his service, Jones remained active in Republican politics and became a member of the Indianapolis Police Department. He died on February 20, 1915, in Indianapolis.[107]

European Immigrants

The Democratic party in Indiana at midcentury embodied a seeming contradiction: virulently Negrophobic while at the same time championing the rights of whites who emigrated from Europe. Democrats wrote this inconsistency into the new Constitution. On the one hand, "No Negro or Mulatto shall have the right of suffrage." On the other hand, "every white male, of foreign birth" could vote if he were of age, had lived in the United States for one year and in the state for six months, and had declared his intention to become an American citizen.[108]

William Z. Stuart, who represented Cass County at the long session of 1851-1852, explained one reason why the party was solicitous of foreigners: "In

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[103] Kokomo *Gazette-Tribune*, March 23, 1892, as cited by Snell, "Indiana's Black Representatives," 142.

[104] *House Journal*, 1893, pp. 909-10, 941, 975. For the furor over Bassett's vote, Kokomo *Daily Tribune*, February 25, 1893.

[105] Indianapolis *Freeman*, March 11, 1893. For biographical information on Bassett, see Snell, "Indiana's Black Representatives," 141-76.

[106] *House Journal*, 1897, pp. 94, 752-54, 1310; *Senate Journal*, 1897, p. 1261; Indianapolis *News*, February 12, 1897.

[107] For biographical information on Jones, see Snell, "Indiana's Black Representatives," 177-252.

[108] Kettleborough, *Constitution Making in Indiana*, 1:304-5.

Indiana . . . without the Germans and Irish we are no where." Thus Democrats decried (in Stuart's words) "invidious discrimination against foreigners" while demanding that blacks be excluded entirely.[109] Since Germans were the most numerous, they were the first beneficiaries of policies designed specifically to meet ethnic needs. Democratic politicians were exhorted to "use . . . influence with the Germans for the whole Democratic Ticket." The appointment of a German postmaster at Charlestown would help. Reading matter was also needed because "a good many . . . read and think for themselves." Such matter must be printed in German, however, and "*must* be *posted* or we will lose them."[110]

It was not long before Democrats translated their pro-German bias into legislation. At every session from 1853 through 1859 the General Assembly ordered the governor's message printed in German, an expensive undertaking since the state had to hire a translator and pay printing costs.[111] In 1858 Matthew Kempf, a Democrat, a German, and a Catholic from Dubois County, proposed legislation that would require county libraries to supply the revised statutes in German. Kempf's bill almost became law.[112]

The race crisis overshadowed other ethnic considerations in the General Assembly during the Civil War. But as soon as the outcome of that conflict was certain, ethnic groups received attention again. For example, in 1865 Germans in Allen County petitioned for separate schools for their children. While lawmakers would not go that far, many agreed with Senator Francis T. Hord, Jr., who said "I would be pleased to see the German language taught in our common schools."[113] It took four years and a concerted effort by the German community in Indianapolis before a law passed providing that German could be offered in any school whenever twenty-five parents or guardians asked for it. The bill had bipartisan support in 1869 because many Republicans agreed with Moses F. Dunn (Lawrence County) that "it would increase . . . the better class of emigrants."[114] In Indiana the votes of such immigrants belonged to the Democratic party for the balance of the nineteenth century.

The Struggle for Women's Rights

The rights to own property and to vote constituted the two major issues of the campaign for women's rights in Indiana. The struggle peaked in the 1850s,

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[109] Stuart to William H. English, March 13, 1854, English, IHSL.

[110] T. Henry Gibbons to William H. English, September 12, 1852, Christian G. Badger to same, February 16, 1853, Michael C. Kerr to same, July 2, 12, 1856, all *ibid.* Emphasis in original.

[111] *Senate Journal*, 1853, pp. 38-39; *ibid.*, 1855, p. 40; *ibid.*, 1859, p. 24; *House Journal*, 1853, p. 40; *ibid.*, 1855, p. 51; *ibid.*, 1857, pp. 48-49; *ibid.*, 1859, p. 31. A move to print 2,000 copies of the governor's message in French was tabled in the Senate in 1853.

[112] *House Journal*, 1858 (s.s.), 80, 342-44; *ibid.*, 1859, pp. 84-85.

[113] *Brevier*, 1865, p. 171; *House Journal*, 1865, pp. 217-18.

[114] *Laws*, 1869 (s.s.), 40. See also *Brevier*, 1869, House debate, 294-99, remarks by Dunn, 295. A proposal to require publication of legal notices in German language newspapers was indefinitely postponed on grounds it would be too expensive and constituted special legislation. *Ibid.*, 233-34. For the campaign to have the German language taught in schools, see Frances H. Ellis, "Historical Account of German Instruction in the Public Schools of Indianapolis, 1869-1919," *IMH*, 50 (1954), 123-37.

abated during the Civil War, and then emerged with renewed vigor after blacks were granted citizenship and the vote. By the same token, the antislavery movement in the 1850s inspired the women's rights movement in the first place. The achievement of civil rights by blacks revitalized the movement because "all the reasons that can be urged in favor of making male negroes voters . . . apply with equal force in favor of conferring the same privilege upon women."[115]

Indiana's earliest property laws were based upon the English common law tradition that considered women almost as perpetual juveniles. Women forfeited all personal interest in property upon marriage. They could not make wills or convey property. They had extremely limited rights of inheritance and no right to an independent income. Women were, however, legally responsible for debts incurred by their husbands.[116] This began to change in Indiana when women found an extraordinary champion in the person of Robert Dale Owen, a representative from Posey County. At the 1837-1838 session Owen proposed to replace dower (an estate merely for life) with new legislation which provided that widows would be entitled to two thirds of a deceased husband's personal estate and one third of his real estate in fee simple. The bill became law in spite of objections. One colleague accused Owen of breaking with the common law; another saw him as plotting "to subvert the whole system of society."[117]

Owen was elected to Congress in 1842 and was thus out of the state when his property act was deleted from the revised state code in 1843.[118] The attitude toward women in a House without Owen was shown at the 1843-1844 session in a judiciary committee report against granting any property rights to females. Committee members admitted that they were "strongly inclined to think that women are *angels*" but they "cannot forget that *angels* may be *devils*." Thus it was "inexpedient" to legislate.[119] The legislature apparently changed its mind in 1847 when it enacted a bill that granted married women the right to devise (*i.e.*, give or dispose of by will) real property.[120]

In 1850, Robert Dale Owen renewed the fight when he returned to Indianapolis as a delegate to the Constitutional Convention. Owen sought to in-

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[115] Indianapolis *Sentinel*, February 10, 1869.

[116] The common law background of nineteenth century property law is explained in Cornelius J. Moynihan, *Introduction to the Law of Real Property: An Historical Background of the Common Law of Real Property and Its Modern Application* (St. Paul, Minn., 1962), see especially 52-59, 87-89.

[117] Richard W. Leopold, *Robert Dale Owen: A Biography* (Cambridge, Mass., 1940), 155; *Laws* (revised), 1838, pp. 236-40.

[118] The act of 1841 authorizing Governor Samuel Bigger to revise the statutes provided that the governor "be, and he is hereby, authorized to prepare a compilation and revision of the general statute laws of this state, and to suggest such amendments and alterations in any of said statutes, and to propose such additional ones as he may deem proper, with a view to the adoption and enactment by the legislature, of a full and complete code of general laws . . . ." Owen's property act was not included by Bigger in the revised code which the legislature enacted in 1843. See Indiana Legislative Council (comps. and eds.), "History of Official Indiana Statutes," *Indiana Code*, 1:xix-xxi, quotation, xix.

[119] *House Journal*, 1843-44, p. 452. Emphasis in original.

[120] *Laws* (general), 1846-47, p. 108.

corporate two clauses respecting women's rights into the Constitution. One would have granted civil equality to married women; the other sought to extend the act of 1847 to personal property for the benefit of wives who did not own real estate. Owen lost on both points; his opponents depicted him as a radical agnostic and cited Scripture against his proposals.[121] But the "Women of Indiana," a self-designated group organized by Sarah T. Bolton, recognized Owen's importance to their cause. On the evening of May 28, 1851, this group held a testimonial for their champion in the Hall of Representatives. Only women were allowed on the floor of a House festooned with green garlands (men were consigned to the galleries). At this first occasion where women were allowed use of a legislative chamber in Indiana, they presented Owen with a classical silver pitcher for his "true and noble advocacy."[122]

Owen rendered a last service to women as chairman of the House committee on rights and privileges during the 1851-1852 long session. He reported a law of descent that abolished courtesy and dower (the common law tradition that a husband has total rights to his wife's property but a wife has only partial, or lifetime, rights to her husband's property), and it passed.[123] This act gave wives and widows in Indiana legal control of their own real estate. In 1853, when Owen was no longer in the General Assembly, the House tried to reestablish courtesy and dower. Alexander McDonald, a Democrat from Lake County, became the new champion of women's rights when he filibustered successfully against the move. As a result, the bill was tabled and then amended by McDonald to extend women's property rights to personal property.[124]

At that point the initial battle for property rights had been won by Hoosier women. During the next quarter century they made additional gains. In 1857 three laws invested deserted wives with property rights.[125] Widows received first claim on the proceeds from the sale of a deceased husband's property in 1869 despite the fact that one senator "received . . . many remonstrances from business men against this bill."[126] In the 1870s women became eligible to hold any office elected by the General Assembly or appointed by the governor; wives were enabled to convey real estate of insane husbands; and an act decreed that the managing board of the women's prison should consist exclusively of women.[127] According to Elizabeth Cady Stanton, "the measure of the highest legislative justice thus far attained in any State" by women came in 1879.[128] "An Act concerning

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[121] Leopold, *Robert Dale Owen*, 272-77.

[122] *Ibid.*, 279-81; Indianapolis *Indiana Journal*, May 30, 1851.

[123] *House Journal*, 1851-52, pp. 82-83, 186-88, 1264-65, 1327, 1371-72, 1386-89, 1419; *Laws* (revised), 1852, 1:248-56.

[124] *House Journal*, 1853, pp. 674, 796-802, 807; *Senate Journal*, 1853, pp. 554-55. See also Leopold, *Robert Dale Owen*, 291-92.

[125] *Laws*, 1857, pp. 92-95.

[126] *Brevier*, 1869, p. 273. The Senate also amended a resolution quoting the Declaration of Independence so that it read "all men and women are created equal." *Ibid.*, 255; *Laws*, 1869, p. 31.

[127] *Laws*, 1873, p. 182; *ibid.*, 1877, pp. 94-95, 64-65.

[128] Elizabeth Cady Stanton *et al.* (eds.), *History of Woman Suffrage* (6 vols., New York, 1881-1922), 3:545-46.

married women," introduced by Republican Senator Addison C. Harris (Marion County) and approved on March 25, gave wives absolute control of their own property. As amended in 1881, the act allowed women to sue alone in actions concerning their own property or between themselves and their husbands.[129]

Although women were enumerated in 1816 to determine if Indiana had the population requisite for statehood, and although women were taxed, under the first Constitution they could not vote. The struggle to gain the vote began in October, 1851, with the formation of the Indiana Woman's Suffrage Association. This organization, one of the first such associations in the United States, meant to exert pressure on the legislature for the vote and other civil rights for women.[130]

The association drew up petitions for the General Assembly in 1853, 1855, and 1857, but appparently none of these was formally presented.[131] During these years politicians sometimes addressed the annual meetings. For example, Marion County Deputy Prosecutor Jonathan W. Gordon, who later served three terms in the House, endorsed all of the resolutions at the 1854 meeting except one or two he felt were contrary to the scriptural injunction that wives should obey their husbands. Gordon was answered by "a woman from Ohio" who insisted that "Gordon's quotations from the Bible were written to other times than ours . . . ."[132] At the 1857 meeting Representative Silas Colgrove "expressed himself decidedly in favor of the movement . . . and requested the privilege of advocating it in the Legislature . . . ."[133]

Due partially to Colgrove's influence, women were permitted to address lawmakers in person on January 19, 1859, and present a petition to a joint session. The presentation was arranged by four members of the Republican majority in the House who, according to the association, "rendered us every assistance in their power . . . ."[134] The evidence suggests, however, that a majority of lawmakers did not take the matter seriously. The morning before the meeting the Democratic organ in Indianapolis said the event would recognize the power of petition "in its widest amplitude" and prove "the power of crinoline everywhere." There was jocularity on the floor before the women were introduced, with Jonathan W. Gordon describing the guests as "ornaments to the State and to their sex" while Richard M. Nebeker parried with William K. Edwards over who was the best looking bachelor.[135] Mrs. Mary F. Thomas then pleaded almost

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[129] For debate on the bill, *Brevier*, 1879, p. 92; *ibid.* (s.s.), 55-56. For the act and the amendment, *Laws*, 1879, pp. 160-61; *ibid.*, 1881, pp. 241, 244.

[130] Minutes of Indiana Woman's Suffrage Association, 1-2, typescript in Indiana Division, ISL.

[131] *Ibid.*, 3-42.

[132] Comments by Mrs. C. M. Leverance (Severance), *ibid.*, 22; Indianapolis *Indiana State Sentinel*, October 28, 1854. The association minutes give her name as Leverance; the newspaper spelled it Severance.

[133] Minutes of Indiana Woman's Suffrage Association, 39.

[134] *Ibid.*, 43-44. In addition to Colgrove, the women named William C. Jefferis, John Comstock, and George C. Whiteman.

[135] Indianapolis *Indiana State Sentinel*, January 19, 1859; *Brevier*, 1859, for Gordon's remarks, 44, for Nebecker-Edwards exchange, 55.

an hour for female suffrage and equal political rights. Mrs. Mary B. Birdsall followed with a briefer argument in favor of granting the prayer of the petitioners. No action, however, was taken on the petition. The next morning's *State Sentinel* described a State House filled with men "meekly looking on, wondering, and it may be, wishing," in the face of "cheeks blushed in loveliness, and red, rich lips . . . a sea of all that is lovely and enchanting . . . ." The paper ended with a hope that never again would the legislature sanction such proceedings.[136]

This hope was fulfilled for a decade as the female suffrage question was muted in the General Assembly. Then, in 1869, House Democrats introduced a concurrent resolution asking Congress to grant female suffrage as a ploy to halt ratification of the Fifteenth Amendment. The resolution was tabled on a party line vote.[137] But the subsequent ratification of Negro suffrage brought female suffrage to the fore again. On January 20, 1871, the Indiana Woman's Suffrage Association sent Amanda M. Way and Emma B. Swank to plead a second time before a joint session of the legislature.[138] The atmosphere was less circus-like than in 1859. More importantly, this time the presentation was followed by action as the Senate resolved to inquire into the expediency of allowing women themselves to decide by referendum if they wanted a constitutional amendment granting female suffrage.[139] The Senate considered the matter on the afternoon of February 15 and the chamber resounded for hours with arguments for and against.

Othniel Beeson, who said he hoped to argue the justice of female suffrage on the stump, turned to the past to prove his point. When in history, he asked, had women proved inadequate to any task? As examples, Beeson cited Queen Elizabeth, "who governed and controlled the mightiest nation in the world," the arm of "the heroic girl that struck down [the French tyrant] Marat," and Madame Roland, the most eloquent woman who ever championed liberty. Turning closer to home, the senator recalled the mothers of the American Revolution who urged their fathers, sons, and brothers to "go forth and do battle against . . . King George, and conquer or return no more." As recently as the Civil War, American women had been found on the battlefield and in the hospitals helping "many a soldier who gave up his life that you and I might live." For all these reasons, said Beeson, women in Indiana should vote.[140]

Republican John V. Hadley of Hendricks County argued the opposite side with equal floridity. He resurrected all of the classic defenses of female sub-

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[136] Indianapolis *Indiana State Sentinel*, January 20, 1859; *Senate Journal*, 1859, pp. 186-90. A move to strike the speech from the *Journal* was defeated 26 to 15 when seven Democrats joined nineteen Republicans to table the motion. *Ibid.*, 194. For a detailed analysis of the episode, see Pat Creech Scholten, "A Public 'Jollification': The 1859 Women's Rights Petition before the Indiana Legislature," *IMH*, 72 (1976), 347-59.

[137] *House Journal*, 1869, p. 451; *Brevier*, 1869, p. 308.

[138] *House Journal*, 1871, p. 297; Minutes of Indiana Woman's Suffrage Association, 44.

[139] *Senate Journal*, 1871, p. 235. The resolution proposed to amend the state Constitution if a majority of women voted for female suffrage at a special election.

[140] *Brevier*, 1871, p. 493.

ordination. God, he explained, had created man and woman to fulfill separate functions in life. Man's duty was to support his wife and children, protect and defend his family, govern and enforce the laws—"all the rougher and severer duties of life." Woman's duty was to train children, preserve society, and hold the race in close communion with the Creator—"all the lighter and more delicate duties of life." Hadley concluded that since his deductions were "warranted by Revelation and by the anatomy of the two sexes," women should not vote.[141]

When the oratory ended, Beeson reported a proposed constitutional amendment to submit the question of granting female suffrage to the electors of the state instead of to the women. The proposal was rejected by a vote of 20 to 27. The next day the Indianapolis *News* expressed relief: "It is far more important that there should be peace in a family than that there should be two votes in it."[142] In 1873 a proposal to submit suffrage to a referendum of only women reappeared in the House and was tabled.[143] In the meantime the Indiana Woman's Suffrage Association kept a barrage of memorials before the General Assembly seeking to make suffrage universal, to give married women control of their own property, to make women equal partners with their husbands, and to ensure that women received equal pay for equal work. Members of the association pledged to work for the election of candidates who favored the extension of these rights to women.[144] Such candidates were usually Republicans in the late 1870s.

After 1875 the House frequently made its chamber available for evening lectures by prominent suffragettes. For example, during the 1879 session both Elizabeth Cady Stanton and Mrs. David Wallace spoke. These lectures could be controversial, as shown when the Senate rejected a House invitation to attend the latter event.[145] But the lectures proved effective in publicizing the women's cause. As a result, sentiment to extend the vote to women was widespread when the 1881 session convened and the Indiana Woman's Suffrage Association nearly achieved its primary goal. Governor Albert G. Porter called on lawmakers to act on the question in his biennial message. In addition, favorable memorials and petitions came from residents of the state generally, from thirty counties, and from the city of Indianapolis. After considering various proposals during the regular session, the General Assembly approved a resolution on April 8 at the special session that proposed a constitutional amendment to give women the franchise.[146] Since amendments had to pass at two consecutive sessions before they could be ratified by the electorate, the supporters went to work. Suffrage

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[141] *Ibid.*, 496. For the entire debate, *ibid.*, 292-93, 492-500.

[142] *Senate Journal*, 1871, pp. 603, 644-45; Indianapolis *News*, February 16, 1871.

[143] *House Journal*, 1873, p. 941.

[144] Minutes of Indiana Woman's Suffrage Association, 96-97, 102-5.

[145] Stanton spoke on Saturday, January 18; Mrs. Wallace, widow of the governor, spoke on February 25. For Senate rejection of invitation, *Senate Journal*, 1879, p. 444.

[146] For Porter's message, *House Journal*, 1881, pp. 87-88. The vote on the proposed amendment was 62 to 24 in the House and 27 to 18 in the Senate. *Ibid.* (s.s.), 1418-19; *Senate Journal*, 1881 (s.s.), 930-32; *Laws*, 1881, p. 721.

societies were organized throughout the state to awaken public sentiment through conventions, mass meetings, lectures, and the circulation of literature. The work was coordinated from a state headquarters in Indianapolis to secure majorities in the next legislature pledged to pass the amendment again and submit it to the people.[147]

There had been a close affinity between suffragettes and temperance advocates in Indiana since the 1850s. Frequently the same women were active in both movements; indeed, they sometimes held leadership positions in both. Many suffragettes boasted about the connection. For example, Mary F. Thomas stated in her presidential address to the Indiana Woman's Suffrage Association in 1878 that "The work of the women in the temperance movement . . . proves . . . that woman can go wherever her duty . . . calls."[148] In 1881 female suffrage and temperance became inextricably intertwined politically when the General Assembly also approved a proposed prohibition amendment. The state was thoroughly aroused on the liquor amendment in 1882 and it could not be separated from the suffrage amendment. The two would stand or fall together.

The political parties made their stands clear in August at their respective conventions. Democrats, who had never endorsed female suffrage as a party, concentrated on prohibition and pledged not to support the proposed prohibition amendment; Republicans endorsed all pending amendments to the Indiana Constitution.[149] Democrats swept the fall elections and in 1883 they controlled the House by a 59 to 41 margin, the Senate by 28 to 22. Although more than 270 petitions were submitted in the House and an equal or greater number in the Senate favoring the liquor and suffrage amendments, both were killed.[150] The failure of the legislature to act in 1883 ended female suffrage as an issue on the state level. The Indiana Woman's Suffrage Association, "disappointed . . . but not discouraged," continued to work with zeal but soon discovered that women would not win the vote through action by the Indiana General Assembly. It would take a federal amendment and that was not accomplished until 1920.[151]

The Regulation of Alcoholic Beverages

Temperance was a persistent issue before the General Assembly between 1850 and 1890, just as it was nationally. At heart, the question was a matter of personal morality, the kind of issue that engendered more heat than light when it became politicized. The movement to regulate by law the manufacture, sale, and consumption of alcoholic beverages in Indiana lacked definition from

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[147] Minutes of Indiana Woman's Suffrage Association, 150-51.

[148] *Ibid.*, 105.

[149] The platforms were printed in the Indianapolis *Sentinel*, August 3, 1882 (Democratic) and Indianapolis *Journal*, August 10, 1882 (Republican).

[150] For an example of the suffrage petitions, see *Senate Journal*, 1883, pp. 293-94. The legislative action on both amendments can be followed in Kettleborough, *Constitution Making in Indiana*, 2:209-34.

[151] The reaction of the suffrage association is recounted in Stanton *et al.*, *History of Woman Suffrage*, 3:543-44, quotation, 544.

the beginning. Temperance could mean temperate use of alcohol; it could also mean voluntary abstinence or state-enforced prohibition. Many churches became involved because they considered intemperance sinful. Methodists, Presbyterians, and Quakers seemed sure that temperance meant prohibition; the Lutheran and Catholic churches seemed willing to settle for strict regulation.[152] Many secularists, usually wary of religious involvement in politics, supported the churches in seeking state action in this one area. Thus temperance advocates included some free-thinkers, some nativists, some abolitionists, some suffragettes, and some Democrats and Republicans. It was little wonder that voters had difficulty knowing who was for temperance, who was against it, or even what was meant by it. But whatever temperance meant, it fused with race and women's rights as one of the three issues that kept the legislature astir.

As a general rule the Republican party supported rigid liquor laws while the Democratic party opposed them. But temperance cut across party lines unpredictably. The Republican constituency included temperance-inclined Christians, nativists, and abolitionists; Republicans also were more inclined than Democrats to use the power of government to regulate people's behavior. Democrats sought to placate the Germans and Irish who stood adamantly against prohibition; Democrats also looked with suspicion upon laws that increased the power of government at the expense of individual rights. But both parties included opportunists who supported or opposed "temperance" as it suited their purposes.[153] Both parties also included adherents who would break ranks on temperance as "a matter of conscience" more readily than on any other issue.

With the possible exception of abolitionism, temperance was the most emotional issue of the era. Next to abolitionism, temperance was also more likely to move legislators to action outside of the legislative halls and was the one aspect of their political careers that they were most fond of recalling. One "strong temperance man" from Jennings County in 1855 wanted the epitaph on his tomb to read: "Washington Malick, when in the State Legislature of Indiana, voted for the Maine Liquor Law."[154] Another wrote a novel entitled *The Scroll and*

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[152] Charles E. Canup, "Temperance Movements and Legislation in Indiana," *IMH*, 16 (1920), 3-37, 112-51. Canup indicated that the Methodists led the fight for prohibition in the state. The faculty and students of the Methodist Indiana Asbury (DePauw) University presented prohibition petitions at almost every legislative session between 1853 and 1889. But similar petitions came with the same degree of regularity from the annual state meetings of the Society of Friends (Quakers) and from the annual state general assemblies of the Presbyterian Church. For a Catholic view, see letter of Father Auguste Bessonies, Indianapolis *Indiana State Sentinel*, February 3, 1859. The pastor of St. John's Church, the only Catholic parish in Indianapolis, Bessonies asked the legislature to regulate the liquor traffic strictly and forbid the adulteration of drinks, the real cause of "delirium tremens."

[153] Democrat Robert C. Bell of Allen County spoke with some truth in 1883 when he said the Republican party supported prohibition only because it knew the Democratic party would prevent passage: "I venture the assertion there are not six Republican senators who will rise and say they are in favor of prohibition as an abstract proposition. I doubt if there are three." *Brevier*, 1883, p. 125.

[154] Malick file, Legislator, IHSL.

Locket, or, The Maniac of the Mound (Indianapolis, 1858), "a spirited temperance story" prepared to popularize his opposition to "tippling houses."[155] Senator William M. Saffer of Harrison County canvassed the state establishing branches of the Social Order of Temperance while Representative Thomas D. Fouts of Clark County became an organizer for the Sons of Temperance.[156]

The regulation of the liquor traffic in Indiana began in 1801 when Governor William Henry Harrison issued a proclamation that forbade traders to sell whiskey to the Indians in Vincennes. The first laws passed by the General Assembly after statehood made it a crime to sell liquor on Sundays, allowed county commissioners to set prices which tavern keepers must post, and imposed fines for allowing gambling on premises where alcohol was sold.[157] Between 1830 and 1850 at least 126 additional laws empowered specific cities and towns to regulate prices and quantities sold.[158] In all of this legislation the intent was to encourage temperance by regulating, but not eradicating, the liquor traffic.

Then, in 1851, as Indiana was adopting and implementing a new Constitution, Maine adopted the nation's first prohibitory liquor law. Prohibition immediately found advocates in other states; in Indiana there was enough pressure by 1853 that Senator George W. Brown (Shelby County) presented the legislature with a pamphlet entitled "A sure cure for the teetotal mania, and a quietus for the Maine liquor law." The senator acted in the face of nearly 300 petitions regarding liquor, many of which requested prohibition. The General Assembly responded with a regulatory act that incorporated many of the features of the previous local laws. In November, 1853, the state Supreme Court declared the act unconstitutional on grounds that it violated the ban on local legislation.[159]

The first attempt at prohibition came in 1855. Both houses were inundated with petitions seeking eradication of the liquor traffic. Advocates of prohibition aligned with opponents of the Democratic party to control the General Assembly. The act that passed (55 to 43 in the House and 29 to 18 in the Senate) forbade the manufacture or sale of "spirituous and intoxicating liquors" except for medicinal or sacramental purposes.[160] Minority Democrats admitted intemperance was an evil worthy of legislative remedy but they protested the severity of the act and predicted that the "last court of appeals in a free government, the people at the ballot-box," would repudiate the act. Before the people could vote, however, the state Supreme Court declared the act unconstitutional on grounds it violated

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[155] James W. Hervey file, *ibid.*

[156] Saffer and Fouts files, *ibid.* Other legislators of the 1850s who wanted to be remembered for their dedication to temperance legislation included John B. Milroy, John W. Ferguson, Dillard C. Donnohue, Oliver Dufour, Samuel T. Ensey, and John P. C. Shanks. See respective files, *ibid.*

[157] *Laws*, 1817-18, pp. 91, 296-99, 314-15; *ibid.* (revised), 1824, pp. 146-48, 406-7.

[158] For examples of these local laws, *ibid.*, 1833-34, pp. 125, 139-40, 145. Liquor legislation before 1850 is reviewed in Canup, "Temperance Movements and Legislation in Indiana," *IMH*, 16:9-23.

[159] *Senate Journal*, 1853, p. 291; *House Journal*, 1853, pp. 609-20, 716, 749-50; *Maize* v. *The State*, 4 Ind. 342-51.

[160] *House Journal*, 1855, pp. 88-89, 172, 405-7; *Senate Journal*, 1855, pp. 204, 267-72; *Laws*, 1855, pp. 209-23.

property rights and the guarantee against unreasonable search and seizure.[161]

From 1855 until the Civil War, the fortunes of temperance depended upon whether Democrats or Republicans controlled the legislature. With Democratic majorities in 1857, temperance lecturers were denied the use of both houses and no bills on the subject passed.[162] In 1859, when Republicans controlled both houses, a complicated licensing bill was passed despite the objections of Governor Ashbel P. Willard, a Democrat.[163] This was the last significant liquor legislation until 1873.

Although the temperance cause was muted in the 1860s, each party continued sending its advocates to the General Assembly. The Republicans included James S. Collins (House, 1861, Whitley County) who wrote that "if we were rid of saloons and intemperance there would be an end of strikes and anarchism . . ."; and Amos Davis (House, 1863, LaGrange County) who was "*very* hostile . . . to . . . slavery and . . . the Liquor Trafic [*sic*] in all of its forms." The Democrats included Newton Burwell (House, 1865, Wells County) who switched to the Republican party after he became a strong temperance man, having been converted during the "Women's Crusade" in Bluffton.[164] Republicans Luther W. Hess (Henry County) and Isaac Kinley, Jr. (Wayne County) showed their dedication in 1869 when they walked out of a banquet honoring senators "on account of wine being served at the table."[165]

Superintendent of Public Instruction Barnabas C. Hobbs revived the temperance issue in 1871 with an impassioned speech before a joint session on the evils of drink. Although many temperance bills were introduced, no legislation resulted.[166] Two years later the first significant temperance bill in fourteen years sought to suppress liquor through a strong local option law. Under its terms a liquor license could be granted only after a majority of voters in a ward, town, or township approved the application.[167] William Baxter of Wayne County, the Republican sponsor in the House, claimed to have fought "the blighting influences" for ten years before concluding that liquor reform would never be accomplished "by moral suasion alone . . . ." So he entered politics, sponsored

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[161] *House Journal*, 1855, pp. 769-77, quotation, 777; *Beebe* v. *The State*, 6 Ind. 501-56. For an eloquent statement of Democratic concern that the act violated basic rights of citizens, see letter of Senator Andrew R. McCleery (Franklin County), in Indianapolis *Indiana State Sentinel*, March 5, 1855.

[162] *House Journal*, 1857, p. 267; *Senate Journal*, 1857, p. 190. Since one of the proposed lecturers was a phrenologist, Senator Walter March moved that the speaker be allowed to talk if "he examines the heads of the members of the Senate free of charge." *Ibid.*

[163] *House Journal*, 1859, pp. 139, 252-56, 320-25, 691-96, 762, 908-10, 911-21, 1058-59; *Brevier*, 1859, pp. 216-17; *Laws*, 1859, pp. 202-5.

[164] Collins, Davis, and Burwell files, Legislator, IHSL. Emphasis in original.

[165] Hess obituary, New Castle *Mercury*, March 17, 1883.

[166] For Hobbs' speech, *Brevier*, 1871, pp. 241-43. The Senate considered a bill to bar habitual drunkards from public office but tabled the proposal when a committee found it "defective in form and detail . . ." even if "correct and eminently proper . . . ." *Senate Journal*, 1871, p. 465.

[167] *Laws*, 1873, pp. 151-58. The law also forbade sales to minors; to everyone every day between 9 p.m. and 6 a.m.; and all sales on Sundays, Christmas, Thanksgiving, the Fourth of July, any other public holiday, and election day.

the 1873 act, and drew satisfaction from the fact that thousands of citizens said "with heartfelt earnestness, 'God bless William Baxter.'"[168]

Baxter's bill was bitterly contested in the Senate. Othniel Beeson opened debate theatrically by presenting a petition 700 feet in length which he claimed incorporated 37,000 signatures supporting the bill.[169] A daylong debate ensued, with opponents echoing the sentiment of Democrat John D. Sarnighausen of Allen County: "Temperance is a virtue growing up in the heart of the man and I do not believe in making men virtuous by law."[170] Between the morning and afternoon sessions Colonel John W. Ray, a temperance leader in Indianapolis, touched off a second controversy by accusing several senators of accepting bribes to vote against the bill. A select committee was appointed to investigate the charges. In the end senators voted 30 to 19 to pass the act, with five Democrats voting for passage and five Republicans voting nay. The select committee that investigated possible briery reported later there was no evidence to substantiate Ray's charge.[171]

The emotion engendered by temperance was illustrated when the Baxter act was amended in 1875. At the passage of the amendment "tears streamed down the cheeks of some of the ladies present at the triumph of their favorite principle." The act was amended again in 1877 to tighten up on Sunday and holiday sales of liquor by "druggists."[172] In 1881, the temperance movement won its greatest victory up to that time when the General Assembly approved a proposed constitutional amendment that "forever prohibited in the State of Indiana" the manufacture, sale, or keeping of alcoholic beverages except for medical, scientific, mechanical, or sacramental purposes.[173] But the victory proved short-lived since proposed amendments had to pass at two consecutive sessions. Anti-prohibition forces swept to an overwhelming victory in 1882 at the only election where liquor was the main issue statewide. Democrats carried both houses.

Although Democrats ran and were elected in 1882 as opponents of prohibition, many felt the people had a right to vote on the matter. Sixteen Democrats therefore joined forty Republicans at the ensuing session to pass the liquor amendment in the House.[174] In the Senate, however, Democrats stood as one in holding that none of the amendments of 1881 could be considered because they had not been entered in the *Journals* in the manner required by the Con-

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[168] Baxter file, Legislator, IHSL.

[169] Indianapolis *Journal*, February 21, 1873.

[170] *Brevier*, 1873, pp. 498-509, remarks by Sarnighausen, 499. Many Democrats supported Baxter's bill. They included Addison F. Armstrong, who claimed his support ruined his chances for another state office although "it is not known that he ever regretted his vote"; and Hugh Dougherty, who voted as "a matter of conscience." Armstrong and Dougherty files, Legislator, IHSL.

[171] *Brevier*, 1873, pp. 510-18; *Senate Journal*, 1873, pp. 616-17, 625, 1076.

[172] Indianapolis *Journal*, January 30, 1875; *Laws*, 1875 (s.s.), 55-59; *ibid.*, 1877, pp. 92-93.

[173] *Laws*, 1881 (s.s.), 720-21.

[174] *Brevier*, 1883, p. 254.

stitution.[175] Most debate centered on prohibition and when the majority position that no amendments were properly before the Senate prevailed, both prohibition and women's suffrage were killed.[176]

Temperance advocates were demoralized by the result. In 1885 they requested a law that would make instruction on the debilitating effects of alcohol mandatory in the public schools. The bill failed and a move that the request be approved if the curriculum also included mandatory instruction in "infant baptism and foreordination" indicated the cause had become an object of ridicule.[177] Temperance retained a peculiar staying power, however, and strict regulation of alcoholic beverages remained before the General Assembly as an issue at each biennium. An endorsement for Samuel Anderson during the election campaign of 1888 showed its continuing potency: "You need not be afraid of Sam getting soaked with whiskey," said a campaign clipping. "He is a temperance man." Anderson won a House seat from Clay County.[178]

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[175] The Constitution stipulated that proposed amendments "shall, with the yeas and nays thereon, be entered on their journals, and referred to the General Assembly to be chosen at the next general election . . . ." The 1881 amendments had not been entered verbatim in either the House or Senate *Journal*. Kettleborough, *Constitution Making in Indiana*, 1:367-68.

[176] *Brevier*, 1883, pp. 14-16, 49-50, 98-113, 116-39.

[177] *House Journal*, 1885, pp. 451-53; *Senate Journal*, 1885, p. 374. A bill making such instruction on the effects of alcohol mandatory passed in 1895. Canup, "Temperance Movements and Legislation in Indiana," *IMH*, 16:134.

[178] Undated campaign clipping from Brazil *Clay County Enterprise*, Anderson file, Legislator, IHSL.

Chapter 6
The Constitutional and Political Context

Indiana entered the second half of the nineteenth century with a new Constitution that marked a turning point for the state and its legislature. The record suggests that initially it was a turn for the worse for the General Assembly. Logan Esarey, the first trained historian to prepare a comprehensive history of Indiana, wrote that the second Constitution "suffers in comparison with the one it displaced." Esarey added that in the legislature "a vast field opened for sinister partisan politics."[1] For nearly forty years (until 1890) party frequently held sway to the exclusion of responsible representative government. Partisanship became less responsible than previously, partly, as Esarey suggested, because of the new Constitution. But partisanship became less responsible primarily because of the issues dividing politicians during the first decades under the document of 1851. There was little room for compromise on citizenship and suffrage for blacks and women or on the strict regulation of alcoholic beverages. Total partisanship became totally irresponsible and engendered behavioral patterns that made dysfunction the norm in the state's legislative process.

Whatever their shortcomings, general assemblies under the 1816 Constitution had always risen above party to meet minimal legislative obligations. They never once failed to appropriate funds so that state government could function. They never once failed to pass apportionment bills at mandated intervals. Whenever necessary they also divided the state into congressional districts and elected United States senators: Indiana was never without its full complement of representatives in Washington during the pioneer period.

By contrast, these minimal obligations were rarely met on time by the general assemblies that convened in twenty regular and ten special sessions between 1851 and 1889. Lawmakers failed to pass an appropriation bill at least ten times during a regular session. They passed only five of the six apportionment acts required by the Constitution and none at the required time until 1867, sixteen years after the document took effect. Inter-party wrangling at the 1855 session caused the state to be without full representation in the United States Senate for eighteen months and ended with four claimants in 1858 to Indiana's two seats. The disruption of the legislative process in the 1860s is usually blamed on the Civil War and its aftermath. In both 1863 and 1869 the legislature ceased to function for practical purposes when fights over war policy and ratification of amendments to the United States Constitution divided members into irreconcilable partisans. But the persistence of legislative disorders in the 1870s and 1880s indicates troubles more deep-seated than differences growing out of the Civil War. In the 1870s failures to pass appropriation bills within the mandated

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[1] Logan Esarey, *A History of Indiana From Its Exploration to 1850* (2 vols., Fort Wayne, Ind., 1924), 1:519.

sixty-one days necessitated four special sessions. In 1887 the fight over a United States Senate seat was so bitter that the legislative process again practically ceased. This fiasco, when the two houses refused even to accept messages from one another, marked the nadir for the General Assembly during the nineteenth century and climaxed four decades of legislative dysfunction.

The second Constitution was partially to blame. This was ironic since a majority (79) of the 150 men who drew it had previous experience as lawmakers. And their work was certainly not hurried. In contrast to the first convention, where less than fifty delegates completed their work in eighteen days, the second convention lasted 127 days, October 7, 1850, to February 10, 1851. During that time every article and section was studied and debated thoroughly. Delegates had little difficulty adopting those reforms that had been widely heralded as necessary. Two of the reforms, however, weakened the stability of the legislature: the substitution of biennial for annual sessions and the imposition of time limits of sixty-one days on regular sessions and forty days on special sessions.[2] The change to biennial sessions of specified length was intended to cut the costs of state government. The result was otherwise. The increased time between sessions weakened the legislature's sense of continuity, an especially important loss in the House where the members were newly elected every session and a majority customarily had no previous legislative experience. The sixty-one day limit was intended to prevent the General Assembly from doing mischief. The limit led instead to hurried and ill-considered lawmaking in the closing days and hours of each session. This proved especially true for biennial appropriations, always passed as the last matter in the closing hours.

The Constitution of 1851

The second Constitution was drawn from its 1816 predecessor, from the constitutions of other states, from resolutions submitted by delegates on behalf of constituents, and from recommendations of committees or motions by delegates from the floor. The finished document reflected the Jacksonian faith of the majority Democrats. The number of elected offices was greatly increased and included all judges, though not justices of the Supreme Court, plus the principal administrative officers such as treasurer, auditor, and secretary of state. Suffrage was extended so that even unnaturalized citizens could vote after a six month residence in the state. The more important reforms embodied in the document included the exemption of homesteads from liquidation for debt, abolishing legislative divorce, and forbidding local (or special) legislation. Voters ratified

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[2] Louisiana became the first state to impose a time limit on sessions when it fixed a period of sixty days in 1845. Virginia and Kentucky followed with fixed periods in 1850, while Maryland and Indiana adopted the plan in 1851. Sixteen other states followed with statutory limitations on the length of sessions later in the nineteenth century. For limiting the length of sessions, see Robert Luce, *Legislative Assemblies: Their Framework, Make-up, Character, Characteristics, Habits, and Manners* (Boston and New York, 1924), 138-47. Luce concluded (p. 142) "It seems incredible that men should have expected from the curtailment of sessions any result other than that which has actually followed. Everywhere it has produced bad work, slovenly, slipshod, hurtful."

the Constitution in August, 1851, and it took effect the following November 1.[3]

Article 4 vested legislative authority in a bicameral legislature consisting of a Senate and a House of Representatives. The former could not exceed fifty members, the latter could not exceed 100 members. Terms of office were four years for senators, two years for representatives; at the 1853 session senators were to be divided equally into two classes, with the seats of one class vacated after two years. Then, beginning with the 1854 Senate elections, "one half or as nearly as possible, shall be chosen biennially forever thereafter." Members had to be American citizens who had lived in the state for two years prior to their election and in the county or district they represented for one year. Senators had to be at least twenty-five years old, representatives at least twenty-one. Once elected, members were not subject to civil process during or for fifteen days prior to the commencement of a session. Except for treason, felony, and breach of the peace, they were privileged from arrest during and while traveling to and from sessions. They could not be held legally liable for any speech or debate on the floor.

Regular sessions were to convene biennially on Thursday following the first Monday in January, beginning in 1853; the governor could call a special session anytime. The session of 1851-1852 was exempted from the sixty-one day limit on regular sessions in order that it might implement the new Constitution. The provisions regarding seating, rules, officers, discipline, and the keeping of *Journals* were essentially the same as before. Members were to be compensated in an amount fixed by law and no increase in compensation could take effect during the session in which it passed.

Many provisions regarding the introduction and processing of bills were retained from the first Constitution. But there were important changes. For one, every act could embrace only one subject, which had to be expressed in its title. All acts and joint resolutions were to be plainly worded and avoid, so far as practicable, the use of technical terms. Except in cases of emergency, every bill had to be read by sections on three separate days in each house, thus requiring not less than six days to pass. No bill could pass without receiving in each house, on a call of the ayes and nays, a majority of all members elected. (During the pioneer period, the rules might be suspended and a bill taken through all readings in both houses on the same day, by merely repeating the title, and then might pass by a bare majority of a quorum, and without the ayes and nays.) Sections 22 and 23 addressed the evil of special legislation, which had grown into unmanageable proportions during the pioneer period. The General Assembly was forbidden to pass such laws and many examples were specified. The enumeration included laws for the punishment of crimes and misdemeanors; laws regulating court practices; laws granting divorces; laws changing the names of persons; laws vacating roads, streets, alleys, and public squares; laws regulating

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[3] Charles Kettleborough, *Constitution Making in Indiana* (3 vols., Indianapolis, 1916, 1930), 1:221-22. See also Lena London, "Homestead Exemption in the Indiana Constitution of 1851," *Indiana Magazine of History*, 44 (1948), 267-80.

county and township business; laws for the assessment and collection of taxes; laws establishing schools; laws for holding elections; and laws for disposing of the estates of minors or other legally disabled persons. In this manner the state was restored, in the words of a Supreme Court decision in 1853, "from being a coterie of small independencies . . . like so many counties palatine, to . . . a unity, governed throughout . . . by the same laws, general and uniform in their operation . . . ."[4] No law could take effect until it was published and circulated in the several counties by state authority. In cases of emergency, a law would take effect immediately upon its being signed by the governor if the emergency were declared in the preamble or in the body of the law.[5]

Article 1, the Bill of Rights, was almost the same as the analogous article in the 1816 document. Article 2, on suffrage, disqualified from office anyone who offered or accepted a bribe to secure election, or who participated in a duel. No one could sit in the General Assembly who held an office or appointment under the United States or state governments. Elections by the people were to be by ballot; all elections by the General Assembly were to be *viva voce*.[6] Article 5, on the executive branch, said election returns for governor and lieutenant governor were to be sealed and directed to the speaker of the House who would open and publish them in the presence of both houses. In the event of a tie, the General Assembly would choose the winner; if an election were contested, the legislature was to determine the outcome in the manner prescribed by law.[7] Article 6, on the administrative branch, empowered the General Assembly to remove state officials either by impeachment and conviction, or by a joint resolution passed by two thirds of the members elected to each house. County, township, and town officers could either be impeached or removed in the manner prescribed by law.[8] Article 10, on finance, said that the General Assembly should provide for a uniform and equal rate of assessment and taxation. At the same time, in response to the internal improvements fiasco, the legislature was forbidden to contract any debt on behalf of the state.[9] Other articles required lawmakers to encourage education by all suitable means and to provide by law for a uniform system of common schools; to provide by law for benevolent institutions and a reform school for juveniles; and directed the legislature to follow certain procedures when incorporating banks or other corporations.[10]

Many of the men who crafted the Constitution and implemented it at the long session of 1851-1852 were prominent in state and national politics during the next forty years. Thus, they witnessed the persistent malfunctioning of the

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[4] *Maize* v. *The State*, 4 Ind. 348.

[5] Kettleborough, *Constitution Making in Indiana*, 1:310-23; concluding remarks of Speaker of the House William H. English, *House Journal*, 1851-52, p. 2209.

[6] Kettleborough, *Constitution Making in Indiana*, 1:305-8.

[7] *Ibid.*, 324-25.

[8] *Ibid.*, 337.

[9] *Ibid.*, 350-52. The only exceptions to the ban on debt were cases of temporary financial exigency, insurrection, or invasion.

[10] *Ibid.*, 346, 350, 354-58.

legislature between 1851 and 1889. Almost none of them, however, traced the difficulty to any flaw in their work. When the survivors met for a reunion in 1885, members of both political parties boasted of their handiwork. Democrat Thomas A. Hendricks, the vice-president of the United States, said of the change to biennial sessions that "experience has shown the wisdom of the change." He added that the Constitution as a whole prevented log-rolling, meant legislation was conducted more carefully, and assured that laws were more stable. Judge William E. Niblack of the state Supreme Court spoke in a similar vein, as did William H. English, secretary of the convention and speaker of the House during the long session.[11] Long time Congressman William S. Holman went even further, stating that the work of 1850-1852 "will stand up secure against every vicissitude of time."[12] William McKee Dunn, representing a Whig-Republican viewpoint, suggested that the Negro exclusion clause was a shortcoming. Dunn then reminisced at length on the wonders wrought by the Constitution for banking, education, and benevolent institutions.[13]

Political Parties to 1890: An Introduction

The Constitution of 1851 made state politics more volatile because, in the words of one historian, "With more offices to strive for and more voters eligible to cast their ballot, the political pot could boil more vigorously."[14] Two major parties kept the pot boiling except for a brief interlude after the Whig party's demise in 1854. Otherwise the state remained basically a two party bulwark during the second half of the nineteenth century. With a few exceptions after 1856, Hoosier politicians vied for popular favor either as Democrats or Republicans. These parties nominated almost all township, town, city, and county officials. State judges were likewise nominated and elected as Democrats or Republicans. Governors and administrators were elected or appointed as partisans. At every session of the legislature, each house selected its leaders and chose its officers on a party basis. Party leaders and elected officials dispensed favors and patronage unabashedly on the sole basis of party.

These parties organized at the lowest level in precinct, township, town, and city units. These units coalesced into a county organization composed of a central committee presided over by a county chairman. For members of the General Assembly the county organization was the most important because nomination for the legislature was secured normally at the county convention. Thus, aspirants sought the chairman's blessing; once this was won, endorsement by the convention

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[11] "The First Reunion of the Surviving Members of Indiana's Last Constitutional Convention" and "Early Lawmakers—Reunion of the Surviving Members of the Legislature of 1851 and Previous Legislatures," Indianapolis *Sentinel*, October 6, 7, 1885.

[12] William S. Holman, *The Constitutional Convention of Indiana of 1850-'51. The Reforms It Accomplished* (Washington, D.C., 1886), 12.

[13] "Remarks of General William McKee Dunn, Indianapolis, October 5, 1885, at the Reunion of the Surviving Members of the Indiana Constitutional Convention of 1850," 2-3, typescript in Indiana Division, Indiana State Library, Indianapolis.

[14] Roger H. Van Bolt, "Indiana in Political Transition, 1851-1853," *IMH*, 49 (1953), 141.

was likely. In addition to slating legislative candidates, county conventions also hammered out a local platform, endorsed slates for local office, and selected delegates to state conventions. These met biennially in election years, usually in the spring, and always in Indianapolis. Here the party took its stand on state and national issues, slated a state ticket, and drew up its state platform. The state convention also selected a central committee composed of a chairman and one representative from each congressional district. This committee operated the state headquarters, most often from a set of rooms in an Indianapolis hotel. The most important work came during the fall elections when the state headquarters allocated funds, arranged speaking schedules, and printed campaign literature.[15]

The papers of Democrat William H. English (House, 1851-1852) and Republican Henry S. Lane (House, 1837-1838) offer insight into the importance of parties. Both men corresponded extensively during careers that, in both cases, spanned almost forty years of Indiana politics. English began as a clerk of the House at the 1843-1844 session and his last party work was as chairman of the state central committee in 1880 when he also ran for vice-president of the United States. In between, English was secretary of the Constitutional Convention, speaker of the Indiana House, and a congressman.[16] Lane's career started with his election to the Indiana House as a Whig in 1837 and ended with his service as delegate to the Republican national convention in 1872. In between these two dates Lane served in Congress and, after the Whig party died, he helped form the Republican party. In 1856 Lane presided at the first Republican state convention, was nominated for lieutenant governor, and chaired the first national convention. In 1860 Lane led Republicans to victory as their gubernatorial candidate; from 1861 to 1867 he served as the first Republican United States senator from Indiana.[17]

Based upon the evidence in the English papers, the Democratic party appealed particularly to small farmers, German and Irish immigrants, all Hoosiers who opposed prohibition or feared Negro equality, and, after the Civil War, to laborers in urban areas. Lane's papers suggest that Republicans found support initially among all Hoosiers who opposed slavery. The party also attracted many businessmen, wealthier farmers, nativists who feared foreigners, and Protestants who wanted prohibition and feared the Catholic church. Democrats were strongest in the southern half of the state, a region that consistently provided their margin in gubernatorial elections and usually returned more Democrats than Republicans to the General Assembly. The parties were almost equal in central Indiana, with

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[15] For the proceedings of campaigns and party platforms, see Russel M. Seeds, *History of the Republican Party of Indiana* (Indianapolis, 1899), 24-87, and John B. Stoll, *History of the Indiana Democracy, 1816-1916* (Indianapolis, 1917), *passim*.

[16] F. Gerald Handfield, Jr., "William H. English and the Election of 1880," in Ralph D. Gray (ed.), *Gentlemen From Indiana: National Party Candidates, 1836-1950* (Indianapolis, 1977), 85-116.

[17] Walter R. Sharp, "Henry S. Lane and the Formation of the Republican Party in Indiana," *Mississippi Valley Historical Review*, 7 (1920), 93-112; Ronald H. Ridgley, "Henry Smith Lane: Republican Progenitor," in *Their Infinite Variety: Essays on Indiana Politicians* (Indianapolis, 1981).

Republicans often enjoying a slight majority. In the less populated northern counties, where a preponderance of New Englanders had settled, Republicans were strongest. To win statewide, Republicans had to cut the Democratic margin in the south and attract some of the immigrant vote in the central and northern cities.[18] Republicans in southern Indiana pleaded with leaders from the outset not to abandon their region. One strategist in Evansville predicted quite accurately during the 1856 state campaign that some Germans could be won on the free soil issue.[19] By 1858 a Democrat explained his apprehensions regarding the German vote:

> I much fear that the German immigrant within the last dozen years will leave us in a body. Most of them (the less intelligent) voted the Republican ticket at our township & borough elections; while the minority say one fourth refused to vote. The wild Irish boys, as usual, vote with us . . . .[20]

Republicans forged their first victories when they captured significant German antislavery votes; during campaigns where that party endorsed prohibition it lost this vote and usually lost the election. The Irish vote remained steadfastly Democratic, but by 1880 the chairman in Warrick County feared that Republicans might even wrest these ballots away. John L. Taylor warned the state committee that Republicans "will control the Irish with money & whiskey. We could control them had we money to furnish whiskey."[21]

Only Democrats exhibited continuous staying power in the General Assembly between 1850 and 1890. Their party entered the second half of the nineteenth century with its Whig opponents on the verge of extinction. By 1860, factionalism and differences over slavery in Kansas dissipated Democratic strength in the state just as similar factors disrupted the party nationally.[22] As a result, Republicans dominated the state in the 1860s. The new party successfully associated Democrats with treason because of the latter party's impassioned defense of states' rights during the Civil War. The charge of disloyalty knocked the Democracy down, but not out.[23] By 1871, Democrats again enjoyed a majority in the legislature. A permanent resurgence was assured when Thomas A. Hendricks and James D. Williams won gubernatorial elections in 1872 and 1876.[24] In fact, Democrats controlled both houses in half of the sessions between 1870 and 1890.

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[18] This general outline regarding the geographic, ethnic, and religious strengths of the two parties is substantiated by William G. Carleton, "Why Was the Democratic Party in Indiana a Radical Party, 1865-1890?," *IMH*, 42 (1946), 207-28.

[19] F. Johnson and others to Henry S. Lane, July 21, 1856, in Lane Papers, Indiana Historical Society Library, Indianapolis.

[20] William W. Wick to William H. English, May 8, 1858, English Collection, IHSL.

[21] Taylor to English, August 24, 1880, *ibid.*

[22] For the party's national decline in the 1850s, see Roy Franklin Nichols, *The Disruption of American Democracy* (New York, 1948).

[23] For the impact of charges of disloyalty against Democrats in the free states, see Joel H. Silbey, *A Respectable Minority: The Democratic Party in the Civil War Era, 1860-1868* (New York, 1977).

[24] Horace Samuel Merrill, *Bourbon Democracy of the Middle West, 1865-1896* (Baton Rouge, La., 1953).

of both parties were "captivated . . . by the spells of his wondrous genius . . . ."[28] But the Irish in Indianapolis were not captivated by Kossuth; they viewed the revolutionist's attacks on the Austro-Hungarian monarchy as an attack upon the Catholic faith. In a letter to the *State Sentinel* the Irish threatened that Catholics would never vote for any man who supported the Hungarian or his doctrines.[29] Former Whigs such as Godlove S. Orth and Richard W. Thompson responded to the uproar over Kossuth by organizing Know Nothing lodges to "save" Indiana from Catholics and foreigners. These nativists allied with anti-Nebraska Democrats, temperance advocates, and antislavery men in the summer of 1854 to create a "people's movement." The coalition took the name Fusionists, but the machinery of Know Nothingism governed nominations, political organization, and the campaign.[30]

This "combined crusade of incoherent factions" swept the fall elections and the 1855 General Assembly became known as the Know Nothing legislature.[31] While the exact number of lawmakers "carried . . . by the ephemerate whirl wind" of Know Nothingism is unknown because the order was secret, the Fusionists included Speaker of the House David Kilgore and at least two dozen others.[32] In the Senate, Alanson W. Hendry proposed a board of visitation for "nunneries and secret religious schools." Hendry's board of "good and reputable citizens," which would free all persons restrained in convents, was defeated by a 27 to 23 vote.[33] Such proposals, when coupled with the passage of a prohibition law, led the *State Sentinel* to observe that the legislature was reverting to the "Quaker-hanging, Baptist-burning, ear-cropping days of Plymouth Rock . . . ." The newspaper sarcastically predicted that future generations would exclaim "blessed were our fathers, for, verily, they did all these things in the name of God!"[34] One Democrat concluded that his party was in a fight for survival with a "heterogeneous conglomeration of political treason[,] bigotry and fanaticism . . . ."[35]

Godlove S. Orth, state president of the Know Nothings, predicted in the flush of victory "that hereafter none but Americans in principle as well as by

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[28] John Lyle King, *Reminiscences of the Indiana Legislature of 1851-52* (n.p., n.d.), 7, pamphlet in Indiana Division, ISL.

[29] Indianapolis *Indiana State Sentinel*, March 5, 1852. The letter was signed by James B. Ryan, Patrick Barret, Patrick Cahill, M. Fogarty, Michael Shea, James Conners, and 178 others.

[30] Carl Fremont Brand, "The History of the Know Nothing Party in Indiana," *IMH*, 18 (1922), 47-81, 177-206, 266-306.

[31] Indianapolis *Indiana State Sentinel*, January 12, 1855.

[32] For the quotation, see sketch of George W. Clark by John Yaryan, Clark file, English Legislator Collection, IHSL. See also Brand, "The History of the Know Nothing Party in Indiana," *IMH*, 18:77, 181. Other Fusion-Know Nothing lawmakers included James W. Hervey, David Cain, Solomon Meredith, Horatio C. Newcomb, Charles H. Test, Robert N. Hudson, David Crane, and Philander S. Sage.

[33] *Senate Journal*, 1855, pp. 632-33.

[34] Indianapolis *Indiana State Sentinel*, February 27, 1855.

[35] Simeon K. Wolfe to William H. English, April 12, 1856, Wolfe file, Legislator, IHSL. Wolfe served in the Indiana House at the 1861 and 1863 sessions.

birth, shall rule America."[36] His prognosis proved wrong, however, because Hoosiers quit the secret order in 1855 and 1856 as rapidly as they had joined. When the American Know Nothing party adopted proslavery resolutions at its national convention in 1856, leaders in Indiana deserted it for the new Republican party. This last grew out of the antislavery element in the "people's movement" of 1854 and made its presence felt at the 1855 session when the House passed several resolutions asking Congress to repeal the Kansas-Nebraska Act.[37] It took the name Republican in 1856 and the new party proved to be the most lasting fruit of Fusion.[38] In 1856 the party slated candidates for every state office and won five of the eleven congressional seats. At the 1857 session there were twenty-five Republicans in the state Senate. When two Know Nothing holdovers joined the Republicans, the party controlled the upper house. Democrats won the House, however, 61 to 38, sufficient for a majority on joint ballot.

Jesse D. Bright, his Senate term up, had a bigger than usual stake in the 1856 election. If Bright's supporters did not dominate the 1857 General Assembly, either outgoing Governor Joseph A. Wright or some Republican would win his seat. Next to his own ambitions, Bright wanted to help James Buchanan secure the Democratic presidential nomination. Bright cajoled, threatened, and engaged in shameless double-dealing at the state convention to get his way. Ashbel P. Willard, hand picked by Bright, won the gubernatorial nomination and Bright men controlled the delegation to the national convention. At Cincinnati in June the Indiana caucus voted 16 to 10 to support Buchanan over Stephen A. Douglas although the latter was the clear favorite with Indiana's Democratic voters.[39] Bright's tactics paid off; Willard was elected governor in October, Buchanan carried Indiana in November, and the senator won his third term in January, 1857. But in the process Bright opened wounds that festered for four years and helped ruin his party by 1860.

Passion and numbers supplanted discourse and compromise in the general assemblies of the late 1850s. Slavery in Kansas, an issue that the Indiana legislature was powerless to decide, engendered the passion. Puerility replaced statesmanship on both sides in 1857 when someone surreptitiously placed an inflammatory pamphlet entitled "The Kansas Struggle of 1856 . . ." on the desks of Democratic senators, who responded with a demand that the authors of the writing be hung.[40]

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[36] Orth to Schuyler Colfax, October 14, 1854, in J. Herman Schauinger (ed.), "The Letters of Godlove S. Orth, Hoosier American," *IMH*, 40 (1944), 55.

[37] *House Journal*, 1855, pp. 141-43, 307-10, 778-80.

[38] Charles Zimmerman, "The Origin and Rise of the Republican Party in Indiana from 1854 to 1860," *IMH*, 13 (1917), 211-69, 349-412; Roger H. Van Bolt, "The Rise of the Republican Party in Indiana, 1855-56," *ibid.*, 51 (1955), 185-220. For the party's development nationally, see Hans L. Trefousse, "The Republican Party, 1854-1864," in Schlesinger (ed.), *History of U.S. Political Parties*, 2:1141-72.

[39] William O. Lynch (ed.), "Indiana in the Douglas-Buchanan Contest of 1856," *IMH*, 30 (1934), 119-32.

[40] *Senate Journal*, 1857, pp. 539-40. There were heated discussions about Kansas at each session between 1857 and 1859. *Ibid.*, 716-17; *ibid.*, 1858 (s.s.), 122-24, 287-89, 292-93; *ibid.*, 1859, pp. 358-59; *House Journal*, 1859, pp. 304-6; Ariel and William Drapier (comps.), *Brevier Legislative Reports* (Indianapolis, 1858-1887), 1859, pp. 81, 109-10.

After 1858 assembly Democrats divided into pro-Buchanan men who favored the admission of Kansas with slavery and pro-Douglas men who favored a free Kansas. Simeon K. Wolfe defined his party's dilemma: "The important question is *not* whether the decline of Douglas or Buchanan is right and should be sustained, but rather, and really, whether the administration should be sustained, or the party divided, and the government delivered over to the factions [Republicans]."[41]

The split over slavery weakened the Indiana Democracy as it drove many moderates out of the party and increased the influence of pro-southerners like Joseph Cox (Senate, 1853) and Cyrus K. Drew (Senate, 1855, 1857).[42] Cox went to Tennessee in 1861 and enlisted in the Confederate Army.[43] Although Drew did not go that far, "He was a Southern Democrat in his sympathies, and believed the Southern States had the Constitutional right to withdraw from the Union . . . ."[44] Defections gave undue prominence to some of the more reckless partisans in Democratic ranks. George P. Buell, Jr. (House, 1853) was almost assassinated at the 1856 national convention due to his strong support of James Buchanan.[45] Richard D. Slater, Sr., president *pro tempore* of the Senate in 1855, several times barely escaped assassination. Once he was mobbed at Lawrenceburg for defending slavery in Kansas and, according to his son, suffered a fractured skull, a broken jaw, four fractured ribs, plus cuts and bruises.[46] With such extremists in control, thousands of voters deserted the Democratic party.

It was apparent before the 1860 elections that the Democratic split over slavery was fatal and Republicans would soon control the federal and state governments. If that happened, said John Law of Evansville, "I would not give a cent for the Union . . . we will be dissolved beyond all question."[47] In October Republicans swept all major state offices, gained control of the General Assembly, and won seven of the eleven congressional seats. Indiana also helped elect Abraham Lincoln president of the United States.[48]

The Parties in the 1860s

By 1860 both parties could paralyze the legislature by carrying partisanship to extremes. They might even prevail as a minority because of the provision in

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[41] Wolfe to William H. English, January 12, 1858, Wolfe file, Legislator, IHSL. Emphasis in original.

[42] For examples of moderate Democrats who became Republicans, see Richard M. Haworth, Reuben S. Ragan, John L. Stone, and John L. Roe files, *ibid.*

[43] Statement by subject in Cox file, *ibid.* Cox opened a law practice in Paoli after the war and received "a liberal patronage considering the prejudice engendered towards me for going south to fight for their cause."

[44] Drew file, *ibid.*

[45] Buell file, *ibid.*

[46] Slater file, *ibid.* Slater was imprisoned for treason during the Civil War, but released without being formally charged.

[47] Law to William H. English, June 18, 1860, English, *ibid.* Law served in the U.S. House of Representatives from 1861 to 1865.

[48] The Republican margin in the Indiana Senate was 28 to 22; in the House, 62 to 38. For the election, see Kenneth M. Stampp, *Indiana Politics During the Civil War* (Indianapolis, 1949), 44-48.

the Constitution that required the presence of two thirds of the members of each house to transact business. When it suited party purposes, lawmakers bolted—*i.e.*, they broke a quorum by walking out to block offensive legislation. Democrats were the first to do this in 1855 to prevent the election of a United States senator. Republicans followed suit in 1857 to prevent passage of an appropriation bill. As the nation endured the successive crises of secession, Civil War, and Reconstruction, such tactics persisted. The regular session in 1861 ended without apportionment or appropriation laws amidst Democratic threats to bolt. The failure to appropriate funds necessitated a special session after the firing upon Fort Sumter.

In 1863 constitutional government came to a standstill when Republicans bolted before an appropriation bill passed. Governor Oliver P. Morton then governed extraconstitutionally for two years as Indiana became financially subservient to the federal government. Irresponsible partisanship continued at the sessions from 1865 to 1869 as the General Assembly coped with the consequences of the Union victory. During these years Democrats fought the vast increase of federal power implied by the postwar amendments to the Constitution of the United States. In 1869, intent on upholding states' rights at all costs, they resigned *en masse* to prevent the enfranchisement of blacks.

Many of the General Assembly's difficulties could be traced to a crisis of leadership in the Democratic party. The election of 1860 destroyed Jesse D. Bright's power and the senator wound up disgraced in 1862 when he was expelled from office for favoring the Confederacy.[49] The leader of anti-Bright Democrats, Joseph A. Wright, became minister to Prussia after his term as governor ended in 1857. When Wright returned to Indiana in 1861 he became a War Democrat (or Unionist) who supported Governor Morton and President Lincoln. Wright's successor as governor, Ashbel P. Willard, was a heavy drinker who exercised little leadership. He died in October, 1860, three months before his term expired.[50] The losing gubernatorial candidate in 1860, Thomas A. Hendricks, was a congressman and commissioner of the General Land Office in Washington, D.C., during the 1850s. In 1863, Hendricks returned to Washington as United States senator, an office he held when his leadership was needed most sorely by his party at home. William H. English left politics in 1861 after four terms in Congress to tend to his banking interests. He remained inactive politically throughout the 1860s. William S. Holman began his long congressional career in 1859 and was, like Hendricks, in Washington for most of the decade. No one of similar stature replaced these men as the Democratic party floundered from crisis to crisis, bereft of leadership and vulnerable to charges of disloyalty because of the actions of a few pro-southern extremists.

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[49] For the particulars, see below, pp. 200-1.

[50] William C. Thompson, an Indianapolis physician who served later in the state Senate, wrote in 1858 that Governor Willard "continues to drink hard. He looks bloated." A year later it was reported that Willard's face was "as red as ever" because he drank too much. See Thompson to Joseph A. Wright, July 21, 1858, and James Swan to same, October 18, 1859, in Wright Papers, Indiana Division, ISL.

As the nation girded for war in 1861, challenges to duels and threats of bodily harm became ingredients in Indiana's legislative process. The House early in the regular session resolved to expel any member who gave or accepted a challenge to a duel.[51] But the threat of expulsion did not deter Gideon C. Moody and Horace Heffren from meeting on a field of honor. Republican Moody (Jasper County) accused Democrat Heffren (Washington County) of treason. The two met at dawn on February 11 in Campbell County, Kentucky, but reached a settlement before fighting a duel. Although both men were arrested by the sheriff when they returned to Newport, Kentucky, the House failed to act against either man.[52] During the special session Democrat Francis P. Smith (Bartholomew County) was warned that anyone who impeded military appropriations "will never . . . leave Central Indiana." This threat was signed "VIGILANCE COMMITTEE." Smith replied that he would act as his judgment dictated "though my body be taken from this hall as a corpse."[53]

In the midst of wartime hysteria it proved a short step from challenges for a duel and anonymous threats to bloodshed. In 1861, Representative Lewis Prosser introduced a bill to repeal an act of 1859 that made it unlawful to carry a concealed weapon in Indiana. Prosser explained that he did not seek repeal for personal reasons since he lived "in a rural district amongst peaceable folks."[54] The repeal bill did not pass. Prosser was shot to death on June 17, 1863, while making a political speech at Nashville. He attempted to draw a weapon in self-defense but was killed instantly, murdered by a Union soldier inflamed by Republican propaganda that depicted Democrats as disloyal for their actions at the 1863 session.[55] Prosser was the only member of the General Assembly during the Civil War who paid for his political convictions with his life.

The Democrats' tactics at the 1863 session grew out of their conviction that Lincoln's emancipation policy had converted the war from a constitutional conflict to preserve the Union to an unconstitutional crusade against slavery. The partisan moves which earned Republican condemnation included a bill to apportion the state in a way favorable to Democrats. Another bill pushed by the majority proposed to pack the board of benevolent institutions. But the bill that occasioned a Republican bolt would have curbed Governor Morton's power by reorganizing the state militia. Although the bill "conformed in every respect to the letter of the state constitution," Republicans assailed it as unconstitutional and treasonable.[56] Republicans walked out on February 25, 1863, and the General

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[51] The House acted after Republican Henry Feagler (DeKalb County) and Democrat Marcus A. O. Packard (Marshall County) exchanged verbal insults. *Brevier*, 1861, p. 160; Indianapolis *Indiana Journal*, February 2, 4, 1861.

[52] Indianapolis *Indiana Journal*, February 12, 13, 1861; *Brevier*, 1861, pp. 216, 228-29. Moody moved to South Dakota where he served in the territorial legislature and at the constitutional convention. He also served in the U.S. Senate from 1889 to 1891. Moody file, Legislator, IHSL. For Heffren's career, see below, pp. 268-69.

[53] *Brevier*, 1861 (s.s.), 78.

[54] *Ibid.* (r.s.), 131.

[55] Indianapolis *News*, February 4, 1899; Prosser file, Legislator, IHSL.

[56] Stampp, *Indiana Politics During the Civil War*, 177.

Assembly ended on March 9 without passing any significant legislation.

The closest student of state politics during the Civil War concluded that "rank partisanship and not treason . . . discredited the Indiana legislature of 1863. For that Republicans and Democrats were equally responsible."[57] Republicans succeeded, however, in convincing the public that Democrats were disloyal. They used the word Copperhead to describe traitors who lurked about in secret societies determined to aid the Confederacy by impeding the Union war effort. All northern non-Republicans, whether they were Peace Democrats, conservatives, members of secret societies, or outright Confederate sympathizers, were indicted as Copperheads.[58]

A discerning Democrat noted near the end of the session in 1863 that his party had "blundered until the Republicans have gained the vantage ground."[59] Republicans hung the albatross of treason so firmly on Democrats that the latter remained a minority until the session of 1871. Indeed, Indiana Republicans made political capital until the end of the nineteenth century by charging Democrats with failure to stand with Lincoln and the Union. A quarter century after the war ended, Republican assemblymen still fondly recalled how the legislature was divided into "the friends and foes of the Union" because Democrats sponsored "dangerous and tresonable [*sic*] legislation."[60]

The actions of some Democrats made the charge of treason plausible. For example, Senator Pliny Hoagland sought to return Jesse D. Bright to the United States Senate in 1863 despite the fact that Bright had been expelled from that body. Hoagland was so discredited that he resigned from the legislature.[61] Democrats also received bad publicity during the Indianapolis treason trials in 1864. State Senator Martin M. Ray defended those accused of membership in the Sons of Liberty, a secret society that allegedly plotted to seize control of the state government. The defendants included Representative Horace Heffren.[62] The public did not forget for a long time that Democrats were tried and convicted even though the United States Supreme Court overturned the convictions in the ruling *Ex parte Milligan* (1866). Twenty years later the Republican press was still calling

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[57] *Ibid.*, 176.

[58] Historians have variously described Copperheads as the "fifth column" of the Civil War, a group that would have necessitated "a constant vigilance in any period," an organization whose story was "gaudy with secret symbols, passwords, and other conspiratorial paraphernalia," and "defenders of civil liberties." George F. Milton, *Abraham Lincoln and the Fifth Column* (New York, 1942), 117; Wood Gray, *The Hidden Civil War: The Story of the Copperheads* (New York, 1942), 224; James D. Horan, *Confederate Agent: A Discovery in History* (New York, 1954), 16; and Frank L. Klement, *The Copperheads in the Middle West* (Chicago, 1960), 20.

[59] Frederick W. Matthis to William H. English, March 6, 1863, English, IHSL.

[60] Richard M. Haworth and John L. Stone files, Legislator, *ibid.* See also Thomas M. Browne file, *ibid.*

[61] Isaac D. G. Nelson to William H. English, January 14, 1863, English, *ibid.*

[62] Martin M. Ray, Andrew Humphreys, and Horace Heffren files, Legislator, *ibid.* For the trials, see Stampp, *Indiana Politics During the Civil War*, 249-65, and Frank L. Klement, *Dark Lanterns: Secret Political Societies, Conspiracies, and Treason Trials in the Civil War* (Baton Rouge, La., 1984), 151-86.

Heffren "one of the most loudmouthed, rampant, bitter, boisterous, violent, venomous, poisonous copperheads that could be found on the face of the footstool."[63]

Members of both parties suffered in various ways because of the inflamed atmosphere. The wife of Republican Representative David C. Branham was terrified when her husband wrote during the 1863 session that Copperheads "would put me out of their way in a minute if they dared, but they have an inkling of the Terrable [*sic*] Retribution that would follow such an act."[64] The Reverend Oliver H. P. Abbett (House, 1863) started his own church when Methodists denounced Copperheads. Abbett's congregation was based upon one cardinal principle: "Political Preaching Discountenanced."[65] John W. Kemp, a one term representative from Vigo County in 1863, seemed to be the only member not bothered by it all:

> While in the House he dressed in a tight fitting suit of gray cloth buttoned up to his chin, single breasted, kept his mouth shut, always voted with the Democratic side, and when the House adjourned there were some people who thought him the most sensible man in the body.[66]

The postwar amendments to the United States Constitution dominated the sessions from 1865 to 1869. The General Assembly had never before ratified a proposed amendment. The nearest analogous action was selection of United States senators and the precedents here boded ill for a deliberative body composed of partisans holding diametrically opposite views. If the fiasco of 1863 marked the low point for representative government, the circumstances of 1865 only promised more of the same. Republicans controlled the House 57 to 42, but in the Senate the parties were tied. Democrats wanted revenge for 1863 and were out to stop ratification of the Thirteenth Amendment, which abolished slavery. The *Indiana Journal* viewed the prospect with trepidation, noting that legislative history under the second Constitution reflected little credit on the state. This Republican organ blamed both parties for the destruction of majority rule. Unless "statesmanship" restored "the honor and dignity of the law-making power" the *Journal* feared that representative government in Indiana might not survive.[67]

A Democrat who put principle above party provided the statesmanship that prevented a repeat of the 1863 donnybrook. Paris C. Dunning had served in both houses in the 1830s from Monroe County. He was elected lieutenant governor in 1845 and became governor in 1848 when James Whitcomb was elected to the United States Senate. Although Dunning did not hold elective office in the 1850s, he was active in party affairs. In 1860 he was a delegate to the Democratic national conventions; in 1861 he declared himself a War Democrat for the Union.

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[63] Warsaw *Times*, reprinted in Indianapolis *Journal*, January 17, 1883. Heffren served again at the 1883 session.

[64] Branham to Cynthia Branham, February 5, 1863, Branham Papers, Indiana Division, ISL.

[65] Abbett was joined in his new Christian Union church by Elijah Huffman (Senate, 1867-69). See Abbett and Huffman files, Legislator, IHSL.

[66] Kemp file, *ibid.*

[67] Indianapolis *Indiana Journal*, January 17, 1865.

Dunning returned to the Senate in the Democratic sweep of 1862 and was elected president *pro tempore* for the 1863 session. Dunning's election meant he would also be acting lieutenant governor. There had been no lieutenant governor since Oliver P. Morton vacated the office to become governor in January, 1861. From 1861 to 1863, Republican Senate President *pro tempore* John R. Cravens served as acting lieutenant governor. Then Dunning served as acting lieutenant governor from 1863 to 1865. In 1863 Dunning won plaudits from both parties for his fairness and leadership in presiding over the Senate. Before the 1865 session convened, Dunning endorsed the Thirteenth Amendment. He stood his ground after arriving in Indianapolis and, with the parties tied, caucused with the Republicans to organize the Senate. Despite some misgivings by Republican leaders, Dunning was reelected president *pro tempore* with twenty-five Republican votes plus that of Democrat Alexander C. Downey.[68] Dunning's leadership proved crucial in preventing Democratic bolts during the regular and special sessions.

On February 10 Dunning declared "of all the votes I have given, I say to-day, in the presence of Almighty God and this Senate, it is the proudest act of my life." After applause, Dunning reviewed his legislative career. "With my closing session," he concluded, "I . . . give a vote that strikes the shackles of slavery off the last Negro in the United States."[69] Although he exaggerated the importance of his vote it was nonetheless true that without Dunning the Indiana General Assembly would not have ratified the Thirteenth Amendment in 1865. Ratification passed the Senate 26 to 24, a bare constitutional majority, after sailing through the House. The announcement of the vote "was greeted with wild shouts, stamping, and other demonstrations of applause."[70]

In 1867 the General Assembly ratified the Fourteenth Amendment giving Negroes citizenship. Democrats opposed the amendment but did not bolt because Republicans enjoyed three to two majorities in both houses. Another factor that kept Democrats in line was passage of an act which imposed a fine of $1,000 on any legislator who absented himself to prevent a quorum. The Democratic state organ recommended a bolt to stop this anti-bolting bill on grounds it "would bind the Democratic party of Indiana hand and foot for years to come."[71] But Democrats stayed at their posts and the anti-bolting bill proved decisive in dictating

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[68] John R. Cravens to David C. Branham, January 8, 1865, in Branham Papers, Indiana Division, ISL; Downey file, Legislator, IHSL. Cravens warned Branham to "keep an eye on Paris C. Dunning." Downey, from Ohio County, also voted for the Thirteenth Amendment and "favored all proper war measures." At the opening of the 1865 special session Dunning was explicit in his conversion to Republicanism: "I shall support the nominees of the Republican party, and shall conform to the usages of the party with which I am co-operating . . . ." *Brevier*, 1865 (s.s.), 19.

[69] *Brevier*, 1865, p. 202.

[70] *Ibid.*, 201. For action on the amendment, see *ibid.*, 173-75, 179-84, 189-93, 195-204, 205-14, 220-24, 226-40, 277-81, and *House Journal*, 1865, pp. 322-24, 395-98.

[71] "An Act to prevent the breaking of a quorum" took effect immediately upon approval, February 7, 1867. It was applicable whenever there was no quorum because of willful or intentional absence by any member of the General Assembly. *Laws*, 1867, p. 131. See also Indianapolis *Herald*, February 7, 1867. For action on the Fourteenth Amendment, *House Journal*, 1867, pp. 101-5; *Brevier*, 1867, pp. 43-46, 79-81, 88-90.

their strategy when they faced the more bitter pill of enfranchising blacks.

Republicans retained control of both houses in 1869 and party differences were typified by Republican Representative Colbrath Hall and Democratic Representative Jonathan D. Cox. The former spoke of the "almost unspeakable pleasure . . . sitting in the . . . session that adopted the fifteenth amendment" while the latter noted his party's determination "to prevent the State being gagged . . ." by black suffrage.[72] Democrats, in the face of $1,000 fines per man for bolting, decided in caucus on a simpler expedient. The minority would prevent a quorum by resigning *en masse*. It did so on March 4, before final action on appropriations. The vacancies were filled at a special election on March 23 and all legislators who resigned (seventeen senators and thirty-seven representatives) were reelected. On April 8 Governor Conrad Baker convened a special session. The parties struck an informal agreement that the amendment would not be considered until after an appropriation bill was passed. But on May 13, when it appeared that Republicans would ratify the amendment anyway, Democrats resigned *en masse* a second time.[73]

The remaining Republicans then ratified the amendment and passed an appropriation bill while arguments raged on the legality of taking any action without a quorum present. United States Senator Oliver P. Morton provided a rationale for the legality of ratification. That action differed from acts of legislation, said Morton, because the duty to consider an amendment was imposed on the state by the nation and a state constitution could not be construed to prohibit such consideration. Morton also pointed to an act of Congress which specified that a majority of all members elected to both houses was sufficient to elect a United States senator, provided that such a majority was present and voting. If Congress had the right to regulate the election of United States senators, Morton concluded, by inference it also could say that amendments to the United States Constitution should be ratified in the same way.[74]

The question of legality became moot in 1870 when a Republican majority in Congress counted Indiana as one of the states that had ratified the Fifteenth Amendment. At the 1871 General Assembly session Democrats moved that "the so-called Fifteenth Amendment . . . and its pretended ratification . . . " were null and void. The resolution passed the Senate by three votes, but it did not clear the House before Republicans resigned *en masse* to end the session.[75]

The Parties in the 1870s and 1880s

Although state government could not formulate a national monetary policy because it could neither coin money nor issue notes, in the 1870s and 1880s

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[72] Hall and Cox files, Legislator, IHSL.

[73] For the views of several Democrats who resigned, were reelected, and then resigned again, see Leroy Calvert, Ochmig Bird, John S. Cotton, Wiley E. Dittemore, Robert Huey, Daniel McDonald, and Charles B. Lasselle files, *ibid.* For the resignations, *Brevier*, 1869, pp. 589-98; *ibid.*, 1869 (s.s.), 221-25, 233-45, 246-47. There is a detailed account of the 1869 sessions in William Christian Gerichs, "The Ratification of the Fifteenth Amendment in Indiana," *IMH*, 9 (1913), 131-66.

[74] Letter from Morton in Indianapolis *Indiana Journal*, May 25, 1869.

[75] *Brevier*, 1871, pp. 143-44; *Senate Journal*, 1871, pp. 328-32; *House Journal*, 1871, pp. 384, 509, 522-23.

money replaced race as the dominant issue in Indiana politics. As a wartime expedient between 1862 and 1864 the federal government had issued $450 million of legal tender notes (greenbacks) for the payment of all public and private debts. These greenbacks, supported by faith in and the credit of the United States government, but not by specie, fluctuated in value according to the fortunes of the Union army. At no time, however, were greenbacks redeemable at face value. The debtor farmers of the West came especially to rely on this federal paper (soft money) and found it a convenient means to pay off specie loans (hard money). When the United States Treasury began to withdraw greenbacks in 1866, reaction was inevitable. Soon, the complex question of government monetary policy was injected into the nation's mass electoral politics.

In 1868 the Democratic national platform called for continuing the inflated wartime money supply while the Republican platform endorsed contraction. In Indiana, however, the platforms of both parties sought a varying degree of inflation: Republicans demanded "restoration" of greenbacks while Democrats demanded "expansion" of the federal paper and abolition of the national bank system. In the ensuing election Republican Conrad Baker defeated Democrat Thomas A. Hendricks for governor by less than 1,000 votes. Two years later Democrats swept into control of both houses of the legislature on a wave of economic discontent. Democrats became respectable again and the two parties remained nearly equal through the 1880s. As a general rule, Democrats emerged as a radical, or inflationist party; Republicans became conservative, or hard money men; and Hoosiers dissatisfied with the major parties supported the Greenback party.[76] The question of hard or soft money arose at almost every session between 1871 and 1887, with neither Democrats nor Republicans long dominant and Greenbackers often holding the balance of power.[77]

In 1872 Republican inflationists in the state broke with the conservative monetary policies of the Grant administration. Along with so-called "Liberal Republicans" who broke with the administration because of its corruption, they allied with Democrats to support Horace Greeley for president and Thomas A. Hendricks for governor. Hendricks won the governorship for Democrats by about 1,100 votes but regular Republicans won a twelve vote majority on joint ballot in the 1873 General Assembly. The Panic of 1873 ensued, leading some Hoosiers to start an "Independent movement" on the sole issue of soft money. In 1874 Republicans in the state responded with an unequivocal endorsement of hard money. Democrats reendorsed unlimited paper along with their other issues. When seventy-eight Democrats and fourteen Independents (Greenbackers) were

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[76] For a comprehensive discussion of the money issue, see Emma Lou Thornbrough, *Indiana in the Civil War Era, 1850-1880* (Indianapolis, 1965), 252-58, 285-313 *passim*. See also Carleton, "Why Was the Democratic Party in Indiana a Radical Party?," *IMH*, 42:207-28. For the national movement, see Paul Kleppner, "The Greenback and Prohibition Parties," in Schlesinger (ed.), *History of U.S. Political Parties*, 2:1549-81.

[77] The varying fortunes of the parties are covered in William G. Carleton, "The Money Question in Indiana Politics, 1865-1900," *IMH*, 42 (1946), 107-50.

elected to the 1875 General Assembly "inflation won a great victory in Indiana . . . ."[78]

Democrats proceeded to lose some credibility with soft money advocates by selecting a fiscal conservative, Joseph McDonald, for United States senator over inflationist Daniel Voorhees. The party nonetheless elected Congressman James D. Williams governor in 1876 after Williams courted the soft money vote with claims that greenbacks were "for practical purposes . . . the best currency we can get."[79] But the new Greenback party, organized in Indiana by Ezra A. Olleman (House, 1865) siphoned enough votes in legislative races to give Republicans a majority on joint ballot at the 1877 session.[80] In 1878 Democrats and Greenbackers united to bury Republicans with 56.5 per cent of the vote and in 1879 this coalition elected Voorhees to a full term in the United States Senate.[81]

The 1879 session represented the high water mark of inflation sentiment in the Indiana House. A series of resolutions urging congressional action on money sailed through the House only to be tabled in the Senate. One, which passed by the astounding margin of 85 to 5, sought free and unlimited coinage of gold and silver. Another asked for the issuance of paper money in an amount equal to $30 "*per capita*."[82]

Lawmakers also devoted considerable attention in 1879 to railway regulation, an issue as dear to Greenbackers as soft money. Railroads were a principal cause of discontent among farmers and a special target of their organization, the Grange. Begun as the National Patrons of Husbandry in 1868 and intended for social purposes, the Grange became a major force in midwestern politics. By 1875, the Indiana State Grange numbered nearly 60,000 members and formed the backbone of the Independent/Greenback movement. Measures to regulate railroads were considered at every session as a result of Grange pressure, but almost none became law.[83] Indiana farmers despaired of effective state action by the late 1870s and looked to the federal government for relief.

A resolution urging Congress to regulate railroads through an interstate commerce commission passed the House in 1879 but encountered resistance in the Senate. One senator insisted on state action, saying the legislature made the railroads and it could likewise unmake or regulate them. Another demanded national action for "the people" oppressed by a "powerful lobby" of organized capital. A defender of railroads said no action was necessary against a business that "conferred . . . inestimable blessings." After Charles H. Reeve of Marshall County likened the debate "to a dispute between two Irishmen as to whether

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[78] *Ibid.*, 122.

[79] Quotation in Thornbrough, *Indiana in the Civil War Era*, 300.

[80] John D. Macoll, "Ezra A. Olleman: The Forgotten Man of Greenbackism, 1873-1876," *IMH*, 65 (1969), 173-96.

[81] Carleton, "Money Question in Indiana Politics," *IMH*, 42:138-41.

[82] *Brevier*, 1879, pp. 37-38; *Senate Journal*, 1879, pp. 332-33.

[83] For a summary of action regarding railroads, with citations to the legislative journals, see Thornbrough, *Indiana in the Civil War Era*, 356-61.

one was digging a hole or only pulling out the dirt while the hole dug itself," the Senate concurred with the House by a 34 to 13 vote.[84]

The money question became less important in the 1880s. Greenbackers were present at every session, however, and on one occasion cast the decisive vote for United States senator. In 1887 the General Assembly contained seventy-five Democrats, seventy-one Republicans, and four Greenbackers. Democrat David Turpie was elected on the sixteenth ballot when Representative Frederick J. S. Robinson of Clay County voted with the Democrats. Robinson had quit the Republican party in 1874 to help organize the Independent movement. In 1880 he lost for presidential elector on the Greenback ticket. He served three terms in the House in the mid-1880s and ended his political career in 1908 when he ran for governor as a Populist and lost.[85]

The Greenback movement was the most significant third party effort in Indiana during the nineteenth century. What began in 1874 as a Hoosier protest became a national party by 1876 and remained a factor in state politics until the late 1880s. Although the life of Greenbackism spanned seven sessions of the General Assembly, the exact number of Greenbackers who served cannot be determined. Party lines were too blurred by soft money Republicans and inflationist Democrats who received Greenback endorsement. Accurate identification was complicated further because the soft money party kept changing its name: the Independent movement of 1874 became the Greenback party of 1876; this in turn became the National party in 1880 and 1884; the remnant in the late 1880s was variously designated as National Greenback, Labor, or Union Labor party. The movement's state organ claimed that forty-seven members were elected to the legislature between 1874 and 1882 after they were either nominated by a Greenback/Independent convention or endorsed and elected as Greenback candidates.[86] Most of these had no other experience in public life. A few, however, were well-known as Democrats or Republicans before switching.

Civil War era lawmakers who became Greenbackers included Democrats Achilles V. Pendleton (House, 1863), Richard Gregg, and Thomas Hunt (both House, 1865). Pendleton was converted through the Grange and ran twice for Congress as a Greenback candidate in the 1870s; Gregg, asserting "that the Democracy followed too near in [Republican] footsteps" as "a mere puppet in the hands of the millionaires," ran for governor as a Greenbacker in 1880.[87] Those who had served as Republicans included Noah J. Major (House, 1865) and Leander M. Campbell (House, 1867). Major and Campbell both returned to the General Assembly as Greenbackers (the former to the House in 1879 and

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[84] *Brevier*, 1879, pp. 26, 35-36, 109-11; *House Journal*, 1879, pp. 373, 383; *Senate Journal*, 1879, pp. 59, 76, 225, 235.

[85] Carleton, "Money Question in Indiana Politics," *IMH*, 42:148; Robinson file, Legislator, IHSL.

[86] Indianapolis *Sun*, October 24, 1874, October 21, 1876, October 12, 1878, November 3, 1880, November 8, 1882. This newspaper began publication in 1873 and served as the Greenback-Independent organ until 1884.

[87] Pendleton, Gregg, and Hunt files, Legislator, IHSL.

the latter to the Senate in 1885).[88] Others who left the established parties included three members of the House in 1875: James M. Emerson, "a Democrat until . . . he became liberalized and drifted into independence . . . "; Mortimer L. Henderson, who went from Democrat to Republican in 1861 to help save the Union and then became an Independent; and John C. Lincoln, who bolted his party "though later he returned to his first love, and died a Republican."[89]

The Election of United States Senators, 1851 to 1867

The United States Constitution provided that state legislatures would individually choose two United States senators for terms of six years each. Each legislature prescribed its own time and manner of election unless Congress mandated the time and/or manner by law. Congress, however, could not change the place of election short of amending the Constitution. Senators must be chosen by the legislature. This process, intended to be relatively simple, became so complex and controversial in Indiana during the 1850s that lawmaking came to a standstill. The General Assembly refused to elect a senator in 1855, leaving the state with only one. In 1858 there were four men who had been elected to fill two vacancies and the United States Senate itself resolved the matter of who represented Indiana. By 1860 legislative paralysis seemed probable every time Indiana chose a senator. Since Indiana's difficulties threatened to spread to other states, Congress passed "An Act to regulate the Times and Manner of holding Elections for Senators" in 1866.[90]

The reelection of Jesse D. Bright in 1851 proved the least troublesome contest of the 1850s. Democrats outnumbered Whigs 95 to 55 and Bright politicked to become the first Indiana senator since William Hendricks (1825-1837) to serve full consecutive terms. The incumbent's major challenge came from Robert Dale Owen, whose campaign failed on January 10 when Bright carried the Democratic caucus by better than two to one. The next day Bright picked up four Whig votes and was reelected 99 to 46 over Charles Dewey.[91]

The death of Senator James Whitcomb in 1852 led to a second contest with Democrats as the main contenders. Governor Joseph A. Wright appointed Charles W. Cathcart to the seat until the General Assembly met. After Democrats buried the Whigs in the 1852 landslide, the governor announced his support for John Pettit of Lafayette to complete Whitcomb's term. Bright proclaimed he would not sit in the same chamber with any man supported by Wright. "The Lord deliver me from the painful operation . . . " Bright wrote as he went all out for Dr. Graham N. Fitch of Logansport. But the effort for Fitch failed

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[88] Major and Campbell files, *ibid.*

[89] Emerson, Henderson, and Lincoln files, *ibid.*

[90] For the influence of Indiana Senate elections on passage of the federal law, David Turpie, *Sketches of My Own Times* (Indianapolis, 1903), 176-78; for the act, *U.S. Statutes at Large*, 14:243-44.

[91] Richard W. Leopold, *Robert Dale Owen: A Biography* (Cambridge, Mass., 1940), 278-79; Bright file, Legislator, IHSL. See also *House Journal*, 1850-51, p. 163.

when the caucus gave Pettit the nod. On January 11, 1853, Pettit defeated Whig Samuel W. Parker 101 to 47 as Democrats without exception supported the caucus choice. Bright was disappointed: "With Pettit I shall have little or nothing to do. I do not recognize him as a gentleman, or my friend, and this . . . is enough to determine my rule of action."[92]

Pettit's term expired in 1855, the year that Fusionists had an 84 to 66 advantage on joint ballot. This made Godlove S. Orth the front runner to succeed Pettit. Orth's major competitors were Representative Solomon Meredith and Judge Joseph G. Marshall. Of the three, Orth, with the advantage of a statewide network of Know Nothing lodges, mounted the most effective campaign. The Know Nothing propensity for mystery was shown when Orth devised a secret code to communicate with supporters. Thus, although "10-1-20-13-21" would not support Samuel W. Parker because "8-21-9-21-16-12-19-7" was in the field, Orth was confident of victory unless Democrats postponed the election.[93] "Of one thing I am most thoroughly convinced," Orth wrote to Schuyler Colfax, "if the election is not brought on within the first ten days of the Session, we shall have inextricable confusion and trouble . . . ."[94]

Orth's prediction came true. Democrats intended to stave off election of an abolitionist by any means. With the parties tied in the Senate, Lieutenant Governor Ashbel P. Willard held the key. Willard gave Democrats a majority with a ruling on a contested election from Harrison County. "Every thing was arranged before the Senate met" and Willard's casting vote gave Democrats a 26 to 24 margin as John Mathes was seated instead of Fusionist Peter Glenn.[95]

Jesse D. Bright then directed the Senate majority not to meet with the House. Instead, the Senate passed a resolution (26 to 24) naming the aged Isaac Blackford as its choice to succeed Pettit.[96] Bright hoped the former Supreme Court judge would attract enough votes in the House for that body to pass a similar resolution. This strategy failed when the House persisted in demanding a joint session and a *viva voce* vote.[97] The impasse could not be broken and the session ended without the election of a junior senator from Indiana. Bright rewarded Blackford for his cooperation by arranging his appointment to a federal judgeship.

Bright prevented a Senate election in 1855. Two years later, with the positions of the parties almost exactly reversed, Republicans used the same strategy against Bright. Democrats held sixty-one seats in the House; Republicans controlled the

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[92] Bright to William H. English, November 21, 1852, January 25, 1853, English, IHSL. See also *House Journal*, 1853, p. 82.

[93] Orth to Schuyler Colfax, November 10, 1854, in Schauinger (ed.), "Letters of Godlove S. Orth, Hoosier American," *IMH*, 40:58-60. Decoded the passage reads: "[Wayne] County is not for [him] because [Solomon Meredith] is in the field . . . ." Orth closed with a P.S.: "If you have not received my key this letter will be rather hard to manage."

[94] Orth to Colfax, December 1, 1854, *ibid.*, 61.

[95] Fred[erick] W. Matthis to William H. English, January 5, 1855, English, IHSL; *Senate Journal*, 1855, pp. 14-16.

[96] *Senate Journal*, 1855, pp. 520-23.

[97] Van Der Weele, "Jesse D. Bright," 149-50; *House Journal*, 1855, pp. 843-44.

Senate 27 to 23. Thus, Bright's party enjoyed an 84 to 65 advantage on joint ballot.[98] But Senate Republicans, citing 1855 as a precedent, thwarted Bright by refusing to meet in joint session. After weeks of bickering the Senate minority acted on its own. On February 4, Senate Democrats went to the House, House Republicans walked out, and Democratic Speaker Ballard Smith declared the convening of a joint session to elect United States senators. Bright was reelected 83 to 2 with one abstention; Graham N. Fitch was elected to the four year term by the same margin.[99] The abstainer was Republican Senator Morgan H. Weir who "grew curious to see what the House was doing . . . on going there, he went no further than the lobby, the Democratic Speaker . . . detected his presence, and counted him as present and not voting." Speaker Smith ordered the door locked so Weir could not leave, and proceeded with the vote. Senator John Yaryan, who represented Union County at the session, recalled later that the United States Senate declared Weir's presence at a joint session could be counted.[100]

Democrats justified their action on grounds that no time, form, or place for the election of senators had been prescribed by either the federal or state governments. "All that seems to be necessary," said the *State Sentinel*, "is, that there shall be some mode that will show the assent of a majority . . . ."[101] Republicans, of course, found the mode unacceptable. They said no quorum of either house was present. Such an election, if allowed, would destroy the General Assembly and "install in its place any mob which may . . . take forcible possession of the House . . . ."[102] The Senate voted 27 to 20 that it had not participated in a joint convention, but Lieutenant Governor Abram A. Hammond, acting as president of the Senate, signed certificates of election for Bright and Fitch.[103] Republicans refused to return to the House and the session ended with no appropriation for the next biennium. The fiscal crisis forced Governor Ashbel P. Willard to call the first special session in the state's history after the elections of 1858 gave Republicans solid majorities in both houses.

Bright and Fitch were seated by the United States Senate on June 12, 1858, over Republican protests.[104] The following November the special session of the General Assembly declared that the seats from Indiana were vacant.[105] The special session also passed an act prescribing the method of electing United States senators, an act that Governor Willard vetoed because "history . . . shows that in times past, on several occasions, no . . . concurrent majority could be procured . . . ."[106]

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[98] Rush County was not represented in 1857 because the House refused to act in a contested election between Leonidas Sexton and Samuel McBride. Both men were given the pay and mileage allowed to members. *House Journal*, 1857, pp. 5, 45, 77, 1093, 1145-54, 1200-1, 1202-6.

[99] *House Journal*, 1857, pp. 395-97.

[100] "Senator Yaryan of Wayne," Indianapolis *Journal*, December 4, 1890.

[101] Indianapolis *Indiana State Sentinel*, February 3, 1857.

[102] *House Journal*, 1857, p. 399.

[103] *Senate Journal*, 1857, pp. 198-201, 274-76.

[104] *Proceedings as to Bright and Fitch Taking Seats in U. S. Senate* . . . (Washington, D.C., 1858), 132.

[105] *House Journal*, 1858 (s.s.), 319-20.

[106] *Brevier*, 1858 (s.s.), 169-70; *Senate Journal*, 1858 (s.s.), 274-77, quotation, 275.

Republicans could not override the veto and on December 22, Henry S. Lane and William M. McCarty were elected to fill the vacancies by joint resolution. The session ended with Lane and McCarty certified by the House clerk and Senate secretary as having been duly elected.[107] Since Democrats still controlled the United States Senate, the *State Sentinel* predicted that the "pilgrimage of Messrs. Lane and McCarty [to Washington], will result in a wild goose chase."[108] Lane explained what happened next: "I presented my credentials to the Senate but that body actuated by partizan feelings refused to recognize my election . . . ."[109]

In response to the fate of McCarty and Lane, the 1859 session sent a memorial to the United States Senate that reviewed the history of Indiana Senate elections since 1855. The memorial stressed that no joint session had been held in either 1855 or 1857, and to emphasize the point Republicans suggested that a federal law compelling attendance at such elections was in order.[110] The election results in 1860 ensured that a Republican would be chosen in 1861 to succeed Graham N. Fitch. Henry S. Lane was promised the seat if he would head the Republican state ticket. Lane agreed and began his Senate campaign immediately after he was elected governor in October.[111] The only challenge to Lane came from a faction that preferred Caleb B. Smith for senator in order to smooth the way of Schuyler Colfax for a cabinet appointment.[112] Yet Lane's appeal as the one man who could avenge the "fraudulent" election of 1857 proved insurmountable. He carried the Republican caucus handily and was elected on January 16, 1861, by a vote of 88 to 58 over former Governor Joseph A. Wright.[113] For the first time in eight years the General Assembly had elected a senator with relative ease.

While Republicans took satisfaction when Lane replaced Fitch, they would not feel totally vindicated until Bright was also gone. And that would not be until 1862. After the outbreak of the Civil War, Republicans grew impatient and directed the state Senate committee on federal relations to investigate Bright. On May 31, 1861, the committee reported that Bright had forfeited all right to represent Indiana because he lived in Kentucky. A resolution seeking Bright's expulsion passed the Senate but the House failed to concur.[114] Bright's fate was soon sealed, however, by publication of a letter he wrote on behalf of an arms

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[107] See certificates of election for Henry S. Lane, December 22, 24, 1858, Lane Papers, IHSL.

[108] Indianapolis *Indiana State Sentinel*, December 23, 1858.

[109] "H. S. Lane, Crawfordsville, Nov 27, 1860, to ____," in Lane Papers, IHSL. Lane prepared this form letter reviewing his claim to a seat for Republicans serving at the 1861 session.

[110] *Senate Journal*, 1859, pp. 62-70.

[111] For details of the bargain, see George Nebeker to Lane, December 20, 1860, Lane Papers, IHSL. According to Nebeker the legislators from Fountain County opposed the deal as "wrong, bad precedent, impolitic." Both Henry Campbell and James F. Fraley, however, voted for Lane on the first ballot.

[112] For the effort against Lane, see C. B. Wagner to Lane, November 2, 1860; C. L. Murray to same, December 3, 1860; Thomas Underwood to same, December 10, 1860, all *ibid.*

[113] *House Journal*, 1861, pp. 92-93; *Senate Journal*, 1861, pp. 84-85.

[114] *House Journal*, 1861 (s.s.), 392-93; *Brevier*, 1861 (s.s.), 253, 256.

merchant. It was addressed "*To His Excellency, Jefferson Davis, President of the Confederation of States.*" The letter had been written March 1, 1861, before the war started, and Bright claimed he intended no harm. The United States Senate saw it otherwise and expelled Bright on February 5, 1862.[115]

Governor Oliver P. Morton appointed former Governor Joseph A. Wright, Bright's long-time foe in the Democratic party, to fill the vacancy until the next General Assembly convened. In 1863, during the most disruptive legislative session yet, the election of a full term replacement proved perfunctory. Democrats decided in caucus to support David Turpie for what was left of Bright's term (until March 4) and Thomas A. Hendricks for the full term (1863 to 1869). On January 14, without debate or delay, Turpie and Hendricks defeated Daniel D. Pratt and Joseph A. Wright by more than twenty votes.[116]

The subsequent disintegration of representative government at the session, however, helped convince Congress that it must standardize Senate elections before the Indiana General Assembly had to choose again. The federal law of 1866 specified that a simple majority of lawmakers constituted a quorum for the election of senators in joint convention; that the election must take place within a specified time period; that a simple majority of those present and voting sufficed for election; and that at least one vote must be taken daily until a candidate was elected.[117] The act was popularly known as the "Indiana law" and it worked well when Lane decided not to seek reelection. In fact, the only excitement in 1867 came when Speaker David C. Branham refused to recognize James B. Belford (La Porte County) for the purpose of nominating Oliver P. Morton. Belford became so irritated "that he hurled an inkwell at the head of Branham, when he was at once recognized."[118] Morton then defeated Daniel W. Voorhees of Terre Haute by a count of 88 to 52.[119]

Through 1867 the Indiana General Assembly elected fifteen men to the United States Senate.[120] Only four, however, were elected for two or more six-year terms. Three of these, James Noble, Waller Taylor, and William Hendricks, served before the legislature divided into political parties. The fourth, Jesse D. Bright, won by such unorthodox methods that Congress passed a special law to standardize the election of senators. The fluctuations of party strength determined the fates of the other eleven and the norm for senators from Indiana became one term or less.

The Election of United States Senators, 1869 to 1887

The tradition of one term or less continued in 1869 when Thomas A. Hendricks' seat was up and Republicans controlled both houses. Potential Re-

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[115] Indianapolis *Journal*, August 20, 1861; Wayne J. Van Der Weele, "'With My Face Toward My Accusers': The Expulsion of Jesse David Bright From the United States Senate," in *Their Infinite Variety*, 77-119.

[116] *Senate Journal*, 1863, pp. 71-75.

[117] For an analysis of the law, see Indianapolis *Journal*, January 16, 1867.

[118] Belford file, Legislator, IHSL.

[119] *House Journal*, 1867, pp. 181-82.

[120] Eighteen men had served but three of them (Robert Hanna, Jr., Charles W. Cathcart, and Joseph A. Wright) were appointed to vacancies and never elected.

publican senators abounded. The early front runner, Walter Q. Gresham, opposed the enfranchisement of blacks. Gresham eliminated himself from the Senate contest, according to his wife, because his party pressed for Negro suffrage.[121] The perennial candidate, Godlove S. Orth, sought the post eagerly but he had little support.[122] Lieutenant Governor Will E. Cumback was the clear favorite by session time. At the Republican state convention Cumback connived to get party endorsement. He then boasted to lawmakers about the "bargain" he struck to run for lieutenant governor in return for the Senate nod. "Should I succeed," Cumback wrote to one representative, "I will be [in] a position where I can help you or any of your friends."[123] The implied bribery and loose talk about bargains alienated several legislators. State Senator James Hughes, a former Democrat with ambitions of his own, decided he could go to Washington himself through an alliance of minority Democrats and disaffected, anti-Cumback Republicans.[124] But first the world must know more about the "convention bargain."

Hughes authored a resolution asking that correspondence between Cumback and Governor Conrad Baker concerning Hendricks' seat be furnished to the Senate for use and information. According to one source, Baker replied that there were some letters but he considered them private and of no interest to the public. A relieved Cumback swore "I never will break the seal of privacy of letters directed to me, so help me God." But Hughes persisted and Governor Baker released four letters. In the first, dated January 6, 1868, Cumback promised Baker an uncontested nomination if Baker would support Cumback for Hendricks' seat. Cumback also sought the advantage of incumbency through appointment if Hendricks resigned as expected to run for governor on the Democratic ticket. Baker refused what he termed a "corrupt and indecent" request and Cumback asked that the letters be returned. Baker obviously refused this request.[125]

The letters split assembly Republicans as the presiding officer of the Indiana Senate was censured for "an improper attempt to tamper with the integrity and destroy the independence of the appointing power vested in the Governor." With his party deadlocked, Cumback withdrew his name after the seventh ballot. On January 22 the Republican caucus endorsed Daniel D. Pratt of Logansport who defeated Thomas A. Hendricks 83 to 60.[126] Within a year the seat almost became vacant again because a disillusioned Pratt wanted to resign. "Whatever capabilities I possessed as a mere lawyer, I have none as a statesman . . . ," Pratt wrote

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[121] Matilda Gresham, *Life of Walter Quintin Gresham, 1832-1895* (2 vols., Chicago, 1919), 1:345-46.

[122] Orth to Daniel D. Pratt, October 22, 1868, Pratt Papers, Indiana Division, ISL.

[123] Cumback to George F. Chittenden, October 19, 1868, Chittenden Papers, *ibid.*

[124] Henry Clay Duncan, "James Hughes," *IMH*, 5 (1909), 92-94.

[125] *Brevier*, 1869, request for information and Baker's response, 35-39, 45-55, 67, letters, 78, 92-93, Cumback's response, 90-91.

[126] *Ibid.*, censure resolution, 95-99, 115, 125, election of Pratt, 169. Several lawmakers claimed credit for springing Pratt as a "dark horse" and securing his election. See Milton S. Robinson, John Green, and Elisha C. Field files, Legislator, IHSL.

to Governor Baker. The party convinced Pratt to stay on out of fear that the next General Assembly might fill the seat with a Democrat.[127]

During the years following the Cumback fiasco most Senate elections were orderly and sedate. In fact, the biggest excitement through 1885 occurred at the pre-election party caucuses. Once the caucus spoke, the choice of the majority party was assured as party discipline remained ironclad. Oliver P. Morton, the man who "has made himself the Republican Party of Indiana," won his second term in 1872 by defeating James D. Williams 81 to 62.[128] A fight between hard and soft money Democrats was averted in 1875 when Daniel Voorhees withdrew from the race. Joseph McDonald, "a hard man standing in a soft place, a specie man clothed in paper," defeated Pratt 78 to 44 with 24 soft money votes scattered.[129] Governor James D. Williams appointed Voorhees to Morton's seat when Morton died in 1877. Voorhees was then elected twice in 1879; he defeated Godlove S. Orth for the unexpired term until March 3, and Benjamin Harrison for the full term beginning March 4.[130]

In 1881 outgoing Governor Isaac P. Gray called in his valedictory address for direct election of United States senators by the people on grounds that the nomination and election process took up too much time.[131] By contrast, Benjamin Harrison was quite satisfied with the way he defeated Gray by a vote of 81 to 62. In the first acceptance speech ever by a senator-elect before the General Assembly, Harrison admitted that he "had no experience in any legislative body, and almost none of public life . . . ." He nonetheless accepted election with "a deep sense of responsibility . . . and a very grateful sense of kindness received . . . ."[132] In 1885 Voorhees won a third term by defeating Governor Albert G. Porter 94 to 51. Voorhees was nominated by a fellow townsman, Representative Eugene V. Debs of Terre Haute, who was serving as a Democrat in his only term in the General Assembly.[133]

The public was beginning to perceive the General Assembly as an efficient, businesslike body by 1887 when lawmakers assembled for the first time in the new State House. Neither war hysteria nor passionate differences over great issues divided the lawmakers. The calm on the surface proved deceptive as the struggle over Benjamin Harrison's Senate seat made the earlier machinations of Jesse D. Bright seem tame. As a result the state Senate denied office to a lieutenant governor elected by the people and the session ended with the two houses maintaining absolute non-intercourse as lawmaking came to a standstill.[134] William

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[127] Pratt to Baker, December 22, 1869, cited in Joseph E. Holliday, "Daniel D. Pratt: Lawyer and Legislator," *IMH*, 57 (1961), 125.

[128] Indianapolis *News*, November 14, 1872; *Senate Journal*, 1872 (s.s.), 161-62.

[129] Indianapolis *News*, January 15, 1875; *House Journal*, 1875, pp. 223-26.

[130] Voorhees won both elections by a vote of 83 to 59. *Senate Journal*, 1879, pp. 113-14.

[131] *House Journal*, 1881, pp. 70-71.

[132] *Ibid.*, 210-11, 213.

[133] *Ibid.*, 1885, p. 206.

[134] For a recap of the session, see concluding remarks of Speaker Warren G. Sayre, *House Journal*, 1887, pp. 943-44.

S. Garber, who covered the session for the Indianapolis *Journal*, concluded that it "exceeded in violence and disorder and nearness to bloodshed and tragedy any that ever before or since disgraced either branch of the legislature."[135]

It began innocently enough when Lieutenant Governor Mahlon D. Manson resigned in the summer of 1886 to accept a federal appointment in the Grover Cleveland administration. Governor Isaac P. Gray wanted the vacancy filled so he would be free to succeed Harrison as United States senator in 1887. Thus, Gray was pleased when Democratic Attorney General Francis T. Hord, Jr., said a new lieutenant governor could be elected at the state elections. The Democrats chose John C. Nelson for the post while Republicans nominated Robert S. Robertson of Allen County. In November, Robertson won by 3,000 votes, "a result few Republicans had expected, and no Democrat in the State believed possible . . . ."[136] The results of legislative races also boded ill for Democrats. They would have seventy-five votes on joint ballot to seventy-one for Republicans and four for Greenbackers/Independents. If Harrison won all of the latter, he could be reelected with the tie-breaking vote of the lieutenant governor. Democrats retained the Senate, however, with a 31 to 19 margin.

Thus, organization of the Senate was crucial. Since the office of lieutenant governor had been vacated, the president *pro tempore* of the Senate became acting lieutenant governor until the next gubernatorial election. Democrats therefore declared Robertson's midterm election unconstitutional. Senator Alonzo Green Smith of Jennings County, president *pro tempore* in 1885, claimed to be acting lieutenant governor. When Green Smith sought a judical verdict on the question, the state Supreme Court held that courts had no jurisdiction in a legislative dispute. The Democratic *Sentinel* set the tone for what followed when it said of the judges: "Damn their cowardly souls."[137]

There was no lieutenant governor when the General Assembly met on January 6, and could be none until the speaker counted the votes and Robertson was sworn. An act of 1872 specified that in the absence of a lieutenant governor it was the duty of the auditor of state to organize the Senate. Under authority of this statute in 1881 the auditor called the roll, announced a quorum, and the Senate then elected a president *pro tempore.*[138] Despite law and precedent Green Smith organized the Senate in 1887. When Republicans objected Smith ruled them out of order. In an incident symptomatic of the entire session, even the opening prayer was interrupted by an objection to Smith's actions.[139]

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[135] Garber, "In the General Assembly of the State of Indiana, The Smith-Robertson Contest for the Lieutenant-Governorship, 1887," 40, bound typescript in Indiana Division, ISL. The account which follows is drawn from Garber's reminiscence, from a pamphlet by Republican Robert S. Robertson, the would-be lieutenant governor, and from a reminiscence by Senator Timothy E. Howard, a Democrat who represented St. Joseph County at the session. See Robert S. Robertson, *The Indiana Rebellion of 1887. The Case of the Lieutenant-Governor* (n.p., [1887]), in Indiana Division, ISL; and "The Legislature of 1887," in Stoll, *History of the Indiana Democracy*, 316-20.

[136] Robertson, *Indiana Rebellion of 1887*, p. 5.

[137] Indianapolis *Sentinel*, January 5, 1887.

[138] *Laws*, 1872 (s.s.), 32-33; *Senate Journal*, 1881, pp. 3-5.

[139] Garber, "The Smith-Robertson Contest," 47-48.

The early maneuvering for a majority on joint ballot was fierce. House Republicans unseated a Democrat; Senate Democrats unseated a Republican.[140] Rumors were rampant: Democrats would recognize Robertson if Republicans stopped unseating Democrats "until a U.S. Senator had been elected"; Green Smith would not sign Republican pay vouchers until all senators recognized him as lieutenant governor. On January 10, Robertson was sworn amidst insults shouted in "language unfit to repeat." The would-be lieutenant governor noted that the legislature "organized unlawfully and selected an unusual number of doorkeepers . . . apparently chosen for development of muscle rather than brains . . . ." On January 13, the Marion County Circuit Court restrained Robertson from acting as lieutenant governor, an order he obeyed until it was lifted by the state Supreme Court on February 23.[141]

In the meantime, on January 19, balloting began for United States senator. David Turpie, chosen in caucus as the Democrat most likely to get at least one Independent vote, was nominated to contest Benjamin Harrison.[142] The parties had agreed that the president of the Senate (Green Smith) would call sessions to order and the speaker of the House (Warren G. Sayre) would preside. For fifteen ballots the count stood 75 to 71 to 4 with Turpie ahead. On February 2, one Independent voted for Turpie, three Independents voted for Harrison, and Green Smith declared Turpie the winner, 76 to 74. Almost simultaneously Speaker Sayre shouted that the vote was illegal because Green Smith could not vote unless there was a tie. The House descended into chaos; as senators returned to their chamber Republican Ferdinand Winter of Marion County was heard to say "We have met the enemy and we are theirs."[143]

A calm of sorts prevailed from February 3 to February 23. The thin volume of session laws (derisively known as "Green Smith's primer") filled up with non-partisan and non-controversial acts to build monuments in the State House for Thomas A. Hendricks and Schuyler Colfax; to regulate dentistry; to build a school for the feeble-minded; and to erect a soldiers' and sailors' monument on the Circle in Indianapolis. When the injunction against Robertson was lifted, even lawmaking such as this ceased.[144]

Democrats expected Republicans to contest Turpie's election in the United States Senate. They were determined not to strengthen the Republican case by seating Robertson. As a result, February 24, 1887, the day that Robertson mounted the steps to preside over the Senate as lieutenant governor, was a black day in

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[140] The unseating stopped when Republicans concluded there was no gain in trading two-year seats for four-year seats. In the House, Republican Henry C. Dickerson replaced Cornelius Meagher; in the Senate, Democrat L. Frank Brannaman replaced William N. McDonald. *House Journal*, 1887, pp. 93-94, 99-111; *Senate Journal*, 1887, pp. 151-80. See also Dickerson file, Legislator, IHSL.

[141] Robertson, *Indiana Rebellion of 1887*, pp. 8-16, quotations, 8.

[142] Turpie had served three terms in the Indiana House, including one as speaker at the 1875 session.

[143] *Brevier*, 1887, p. 131; *Senate Journal*, 1887, pp. 202-10, 219-20, 232-35, 257-59, 263-64, 306-7, 308-9, 337-38, 350-51, 356-64, 375-77, 396-98, 410-11, 418-24; quotation, Garber, "The Smith-Robertson Contest," 63.

[144] Stoll, *History of the Indiana Democracy*, 319; *Laws*, 1887, *passim*.

the history of the General Assembly. Two Republican senators received "a black eye, a cut cheek and disarranged clothing" while jostling with Democratic "doorkeepers" as Robertson entered the room. When he approached the Chair, another doorkeeper seized Robertson by the throat and hurled him several feet into the front row seats. Republicans rushed to assist the lieutenant governor. The chamber erupted with shouts:

"Order! We must have order!"

"Put Senator [Mark L.] DeMotte in his seat, and if he leaves it . . . remove him from the floor," said Green Smith to a doorkeeper.

"The Chair has no right to expel a senator!"

"Only the Senate can do that by a two-thirds vote!"

"Stop! I'm armed. I'll kill the man that touches me."

There was a fistfight between Senators Isaiah B. McDonald (Whitley County Democrat) and Henry U. Johnson (Wayne County Republican). A desk toppled upon Senator De Motte (Porter County Republican) as a doorkeeper wrestled him to his seat. The would-be lieutenant governor, meantime, was hustled unceremoniously to the door and thrown out, into the arms of 600 waiting partisans.[145]

Worse violence threatened. Inside the Senate stood almost fifty armed Democratic doorkeepers; outside surged 600 Republicans intent on storming the door and taking Green Smith prisoner. Only the statesmanlike actions of Robertson avoided the spilling of blood. Once outside, Robertson proceeded to the south stairway, climbed three or four steps, and addressed the crowd. It was not the duty of elected officials to seize office by force, he said. "Do nothing in the heat of passion which you would regret in the future." As the crowd became calm Robertson concluded with a partisan reassurance: "[Today's events] will hurl this infamous Democratic party from power in the State for the next quarter century."[146] Robertson proved a poor prophet, however; in 1889 Democrats held their majority in the Senate and gained control of the House. In 1890 Green Smith was elected state attorney general.

After the expulsion of Robertson, lawmakers abandoned all idea of legislating; the houses even refused to accept messages from one another. A Republican newspaperman later said of the Democrat most responsible for the deadlock:

> When he wasn't engaged in keeping republicans out of office—in all the other relations of life—he [Alonzo Green Smith] was a fair man, a good natured and agreeable gentleman.[147]

Green Smith admitted some culpability in 1893 when he paid $500 and costs to Robertson rather than face trial in a civil suit wherein Robertson charged Green Smith with acting unconstitutionally.[148] The Democratic view of the session was

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[145] *Brevier*, 1887, pp. 510-15; Robertson, *Indiana Rebellion of 1887*, pp. 17-21; Garber, "The Smith-Robertson Contest," 67-73.

[146] Garber, "The Smith-Robertson Contest," 73-74; Robertson, *Indiana Rebellion of 1887*, p. 22.

[147] Garber, "The Smith-Robertson Contest," 77.

[148] "Green Smith Quits," Indianapolis *Journal*, October 8, 1893.

voiced by Green Smith when, in his valedictory as president *pro tempore*, he called it "the most memorial [*sic*] Senate that has ever met on American soil." Democrats had defeated Republicans on every issue, Smith said, and "I am satisfied with every act I have performed."[149] The historian viewing the session a century after the fact is forced, however, to agree with the view of Robertson: "history will probably record the proceedings as unparalleled in stupidity . . . ."[150] Indiana's crisis in 1887 over a Senate seat did encourage the national movement for direct election of United States senators. The bitter experiences of the state legislature with Senate elections from 1851 to 1887 suggested that such reform was sorely needed.[151]

The General Assembly and the Governors

The Constitution of 1851 reduced legislative dominance without really strengthening the office of governor. For example, unlike the first Constitution, the second provided that no governor could hold office more than four years in any period of eight years. (See Appendix A, Table 3.) Nonetheless, three governors served more than four consecutive years during the era. Joseph A. Wright served eight years (1849 to 1857) because he was the last governor elected under the first Constitution and the first governor elected under the second. In addition, Oliver P. Morton and Conrad Baker served six years each as governor, although each was elected to the office only once. Morton advanced from lieutenant governor to governor when Henry S. Lane was elected to the United States Senate in 1861 and won the office in his own right in 1864. Baker was elected lieutenant governor in 1864 and became governor when Morton went to the United States Senate in 1867. Baker then won the office in his own right in 1868. The constitutional limitation of no more than four years in any period of eight years was intended to prevent governors from succeeding themselves; it ensured lame duck administrations. Since the governor was financially dependent upon the legislature for the funds needed to run state government, the power of appropriation could be, and was, used as a weapon by lawmakers to force their will upon reluctant executives. The governor's veto was weak because a simple majority in each house could override. Biennial elections of the treasurer, auditor, secretary of state, and attorney general prevented executive dominance of the major administrative offices. Party control of such offices could also change at midterm, further weakening a governor's influence.

The Democratic party controlled the executive branch from 1851 to 1861 through the administrations of Joseph A. Wright, Ashbel P. Willard, and Abram A. Hammond. For the next twelve years (1861-1873), Republicans controlled the office through the administrations of Oliver P. Morton and Conrad Baker. The

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[149] *Brevier*, 1887, pp. 613-14.

[150] Robertson, *Indiana Rebellion of 1887*, p. 8.

[151] In the only show of near unanimity in 1887, the Senate resolved 43 to 4 to ask Congress for a constitutional amendment to elect U.S. senators by popular vote. *Senate Journal*, 1887, p. 325.

1870s brought Democratic administrations headed by Thomas A. Hendricks (1873 to 1877), James D. Williams (1877-1880), and Isaac P. Gray (1880 to 1881). The parties alternated the governorship in the 1880s, with Republican Albert G. Porter serving until 1885, followed by Democrat Isaac P. Gray (1885-1889), and Republican Alvin P. Hovey (1889-1891).

Executive-legislative conflict was at a minimum while Joseph A. Wright was governor. When Democrats controlled the General Assembly, as in 1853, his vetoes were generally upheld.[152] In 1855 Wright killed two banking bills despite a hostile legislature because Democrats bolted before the majority could override.[153] In 1853 and 1855 Wright allowed temperance bills to become law despite personal objections because he believed, correctly, that the state Supreme Court would kill them. On the other hand, Ashbel P. Willard faced constant conflict with Republican-dominated legislatures. He had earned Republican animosity as lieutenant governor in 1855 when his vote in a contested election gave Democrats a majority in the Senate. Republicans retaliated in 1857 by bolting before an appropriation bill was passed. The ensuing fiscal crisis forced Willard to call a special session in 1858 that was dominated by Republicans. Although an appropriation bill passed, Willard was stymied at every turn thereafter.

In January, 1861, Oliver P. Morton became the first native-born Hoosier to serve as governor. Once in office he began to forge a Republican organization under his complete control. The Constitution designated the governor as commander-in-chief of the military and naval forces of the state and empowered him to use such forces to suppress insurrection or repel invasion. Although these provisions rarely enhanced executive power in normal times, during the Civil War they offered opportunities that a consummate politician like Morton was quick to seize. Since the Constitution further empowered the governor to appoint adjutant, quartermaster, and commissary generals, Morton also enjoyed patronage possibilities undreamed of by previous state executives.[154] A surge of patriotism and determination to save the Union overcame Hoosiers with the attack on Fort Sumter. The situation allowed Morton to reign supreme from April, 1861 to October, 1862. Then the Democratic party swept the midterm elections. A disconsolate governor telegraphed a friend: "We have lost the State legislature and all."[155]

Morton exaggerated; he was not a man to accept such a loss if he could help it. He decided he could rule without the legislature if he destroyed the

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[152] As one example, Wright vetoed a bill regulating suits against the state on grounds the new Constitution only allowed such litigation if it originated after the implementation of the Constitution, November 1, 1851. *Ibid.*, 1853, pp. 586-89.

[153] *Ibid.*, 1855, pp. 713-16; *House Journal*, 1855, pp. 790-94.

[154] Kettleborough, *Constitution Making in Indiana*, 1:327, 360. For Morton's relations with the General Assembly, see Lorna Lutes Sylvester, "Oliver P. Morton and the Indiana Legislature of 1863," in *Their Infinite Variety*, 123-54.

[155] Morton to D. R. Martin, October 17, 1862, Governor's Telegraphic Correspondence, Archives Division, Commission on Public Records, Indiana State Library. Democrats won both houses of the General Assembly, all major administrative offices, and seven of the eleven congressional seats.

credibility of Democrats in the General Assembly. His actions against Democrats between the election and the end of the 1863 session precipitated the conflict that put constitutional government in abeyance. Morton began by planting stories in the Republican press about Democratic plans for secession, armed uprisings, and sabotage. The governor warned President Abraham Lincoln that "The fate of the Northwest is trembling in the balance" because the legislatures of Indiana, Ohio, and Illinois planned to join the Confederacy.[156] Morton also informed the secretary of war that the Indiana General Assembly would acknowledge the Confederacy.[157] As Democrats arrived in Indianapolis for the 1863 session, the air was rife with rumors of Copperheadism, conspiracy, and plots.

Customarily, after both houses organized, the governor addressed a joint session to spell out his program for the biennium. This always impressive and sometimes inspiring ceremony developed from the constitutional provision that governors "shall from time to time, give . . . information touching the condition of the State . . . ." But the Constitution did not specify when, where, or how such information was to be given. Morton decided in 1863 to release his message to the press and send separate printed copies to each house rather than dignify the legislature with his presence. House Democrats were enraged by this irregular, almost unconstitutional act of "unquestionable discourtesy." Jason B. Brown of Jackson County put it most colorfully: "His Excellency had, by one of his hirelings—a man whom he kept to sweep out his office—sent his message to be flung contemptuously on the Speaker's desk."[158] In retaliation, the House lauded Democratic Governor Horatio Seymour of New York and condemned Morton for refusing to appear before the General Assembly. Morton, however, made it clear that the printed message was the only kind the legislature would receive. The governor won this first round because he enjoyed public support.[159]

After this initial fray, Democrats combed the Constitution to find ways to hamstring the governor. They found that the General Assembly could create a council of state officers "without whose advice and consent the Governor shall not have power to grant pardons . . . ." Since Democrats filled all major administrative offices, they proposed to create such a council with the stipulation that members "shall discharge all other duties imposed on them by law."[160] Other proposed bills would have packed the Board of Benevolent Institutions and the Indiana University Board of Trustees with Democrats, and gerrymandered the state to the virtual exclusion of Republicans.[161] Gravest of all was a militia bill that went for Morton's political jugular by proposing to deprive the governor of his wartime patronage powers. The Constitution stipulated that the state militia would be "organized, officered, armed, equipped, and trained in such manner

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[156] Morton to Lincoln, October 27, 1862, cited in Sylvester, "Oliver P. Morton and the Indiana Legislature of 1863," in *Their Infinite Variety*, 131-32.

[157] Morton to Edwin M. Stanton, January 3, 1863, *ibid.*, 132.

[158] For House reaction to the printed message, *Brevier*, 1863, pp. 21-27, 29, 31-34, 41.

[159] *Ibid.*, 93; *House Journal*, 1863, pp. 68, 92.

[160] Kettleborough, *Constitution Making in Indiana*, 1:331; *Brevier*, 1863, 119-21, 127, 234.

[161] *Brevier*, 1863, pp. 149, 153, 161; *House Journal*, 1863, pp. 426-27, 504, 557, 575.

as may be provided by law."[162] Democrats proposed to give the power of military appointments to a board of state officers. Militia leaders would be commissioned either by this board or elected by militiamen themselves. According to another provision, the militia might be called out on the warrant of a judge, mayor, or justice of the peace, thus potentially placing Morton under the orders of lesser magistrates.[163]

The majority agenda for the 1863 session was prepared amidst almost daily charges by Morton's supporters that Democrats were in treasonous consultation with southern emissaries. Democrats found an eloquent defender in the person of Speaker of the House Samuel H. Buskirk of Monroe County. On February 6, in response to accusations that his party favored an armistice and supported the establishment of a Northwest Confederacy, Buskirk denied the charges and added that Democrats would stick together. "We are a band of brothers. We think together; we act together; we vote together; we have done so since the commencement of the session, and we expect to do so until the close of it." In what could only have been an ominous note for Republican opponents of the militia bill, Buskirk affirmed that Democrats would even support passage of bills they personally opposed: "If a majority of my party decides in favor of [a] measure, which I do not altogether approve, I will still go with my party in preference to voting with the opposition."[164] On the same day that Speaker Buskirk spoke so tellingly about Democratic solidarity, Republican Senator Benjamin F. Claypool (Fayette County) expressed his party's hope that the militia bill "may not have friends enough to pass it—yet in no event will it pass." Claypool knew the governor. Since a simple majority in each house sufficed to override a veto, Governor Morton concluded that "there was but one way to prevent the passage . . . and that was to break up the legislature." The Republican bolt followed. Democrats were confident of a special session since no appropriation bill had been passed, but they reckoned without the resourcefulness of their adversary. On March 16, the *State Sentinel* published what its editor called a "semi-official dispatch" which explained a plan by Morton to run the state without any legislative appropriation.[165]

For the next twenty-two months, Morton did exactly that. The United States War Department provided the governor with $250,000 from a $2 million fund designated for use in states threatened with rebellion. Morton also used the profits from the state arsenal to help finance state government. He did not have to deposit such funds with the treasurer of state because the 1863 session had not legally recognized the arsenal. The governor also borrowed from banks, including a loan of $600,000 from the New York firm of Winslow, Lanier and Company.

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[162] Kettleborough, *Constitution Making in Indiana*, 1:358.

[163] *House Journal*, 1863, pp. 479-81, 619-25; *Brevier*, 1863, pp. 99, 155, 181-84, 192-94.

[164] Speech of Speaker, February 6, printed in Indianapolis *Weekly State Sentinel*, February 16, 1863.

[165] Claypool to Allen Hamilton, February 6, 1863, in Hamilton Papers, Indiana Division, ISL; William Dudley Foulke, *Life of Oliver P. Morton* (2 vols., Indianapolis, 1899), 1:239; Indianapolis *Weekly State Sentinel*, March 16, 1863.

In addition, he raised money through Republican officials in various counties. The action of John Comstock (House, 1859) of Wabash County was typical: " . . . his surplus funds were at the disposal of Governor Morton with only assurances (verbal) that they should be refunded when an appropriation was made."[166] Morton deposited all funds in his office safe and directed fiscal affairs through an *ad hoc* bureau of finance to avoid a clash with the state treasurer and auditor. By January, 1865, he had raised $1,026,321, and had spent without authority of law, $902,065.[167] When Democrats logically charged the governor with extralegal and unconstitutional actions, he responded with renewed charges of Copperheadism and instigated treason trials in Indianapolis on the eve of the elections in 1864.

By such tactics Morton became a virtual dictator; he also rose daily in popular esteem. So great was his popularity that Democrats did not dare question Morton's eligibility to run for governor in 1864 on grounds that he had already served four years in eight as governor. In short, Morton won the greatest gubernatorial conflict with the General Assembly in the state's history by winning the election of 1864 with more than a 20,000 vote majority. At the same time Republicans swept into control of both houses of the legislature, thereby saving the Civil War governor from financial and political ruin.[168]

Oliver P. Morton was unquestionably the most powerful governor of Indiana during the nineteenth century. His one-man rule, free of legislative restraints, was possible, however, only because of the Civil War. While his fight with the General Assembly exceeded all similar conflicts in bitterness and magnitude, it did not permanently strengthen the office of governor. Morton's successors for the balance of the century enjoyed neither more nor less success with the legislature than did his predecessors.

The failure to appropriate funds on time proved a frequent source of discord. In 1879, Democratic Governor James D. Williams assailed an overwhelmingly Democratic General Assembly for one such failure. Lawmakers would receive the "chastisement which faithless and incompetent representatives may always expect from an outraged constituency," said Williams, because of the needless expense of a special session.[169] Former Republican Speaker of the House John Overmyer echoed Williams' criticism during the session: "We have come as near to the accomplishment of nothing as could well be done" at a cost of $1,500

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[166] Comstock file, Legislator, IHSL. For the loan from Winslow, Lanier and Company, see Augustus Bradley file, *ibid.*, and Stampp, *Indiana Politics During the Civil War*, 182-84. The governor's financial manipulations are covered in Sylvester, "Oliver P. Morton and the Indiana Legislature of 1863," in *Their Infinite Variety*, 146-50.

[167] William B. Hesseltine, *Lincoln and the War Governors* (New York, 1948), 315. Hesseltine shows that Morton went further than any other governor in exceeding the constitutional limits of executive power.

[168] Stampp, *Indiana Politics During the Civil War*, 250-53. Chapter 8 of Stampp's book, covering the 1863 legislature and Morton's subsequent policies, is entitled "The Collapse of Constitutional Government," 158-85.

[169] *Brevier*, 1879 (s.s.), 9-10.

a day.[170] Lawmakers were neither chastised nor heedful, however, as 1881 marked the fifth consecutive General Assembly with a special session.

Most conflicts with the executive after the Civil War involved vetoes and overrides on party grounds. For example, in 1879 a Democratic legislature gave a Democratic governor the power to appoint trustees of benevolent institutions. In 1883, a Democratic legislature repealed this appointive power because a Republican governor was in office. Governor Albert G. Porter noted to no avail that when legislators elected trustees time was wasted "in useless political controversies to the great detriment of the business which . . . members were elected to discharge."[171] Republican Alvin P. Hovey vetoed eleven bills when confronted with a Democratic legislature in 1889. Most of the vetoed bills extended the patronage potential of the legislature and each became law in spite of the governor's objections.[172]

Apportionments, 1855 to 1885

The Constitution of 1851 replaced the former five year cycle of enumerations and apportionments with a provision that a count of voters should be taken in 1853 and every sixth year thereafter. At the first session following each enumeration the seats in each house were to be divided among the several counties. The intent was to form at regular intervals legislative districts that embraced as nearly as possible an equal number of voters. The Constitution also stipulated that districts embracing more than one county must be composed of contiguous counties and for senatorial apportionment no county could ever be divided. Thus, the framers also intended some degree of geographic balance among districts.[173] In this way the General Assembly was mandated to reapportion itself in 1855, 1861, 1867, 1873, 1879, and 1885.

The legislatures under the first Constitution had always passed required apportionments at the proper time. During the period 1851 to 1890, however, only five of the six mandated apportionments were passed, and none at the required time until 1867. In 1855 a House bill based upon the enumeration of 1853 was amended in the Senate. The House refused to concur and the session ended before the Senate could act upon the House refusal.[174] This failure caused Governor Joseph A. Wright to issue a proclamation stating that the 1856 elections would be based upon the 1851 apportionment law.[175]

In 1857 Governor Ashbel P. Willard called for apportionment even if it was late. Despite the division over electing United States senators, the legislators

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[170] *Ibid.*, 47.

[171] *Ibid.*, 1883, p. 221; *Senate Journal*, 1883, pp. 678-79, 694.

[172] *Senate Journal*, 1889, pp. 838-43, 1088-90, 1131-33, 1177-81, 1322-28, 1387-91; *House Journal*, 1889, pp. 892-98, 1085-87, 1113-15, 1322-23.

[173] Kettleborough, *Constitution Making in Indiana*, 1:312.

[174] *House Journal*, 1855, pp. 718-20, 729-31, 857-80, 912; *Senate Journal*, 1855, pp. 694-95, 701, 729-30, 770. See also Leon H. Wallace, "Legislative Apportionment in Indiana: A Case History," *Indiana Law Journal*, 42 (1966), 32.

[175] Indianapolis *Indiana Journal*, July 4, 1856.

complied. Since Republicans controlled the Senate and Democrats controlled the House, the resultant legislation represented a compromise acceptable to both parties.[176] While the act contained no "floats" (*i.e.*, districts in which representation alternated between specified counties in each session under the apportionment), it introduced "combined fractions" in House districting. This was a device whereby a county with more than enough population for one representative, but not enough for two, elected one representative separately and one jointly with a contiguous county. The act created seven fractional districts. It was clear that lawmakers knew their action came two years late since they entitled the law "An Act to apportion Senators and Representatives for the next four years."[177] (See Appendix B, Maps 23-24.) It would be 1867, however, before the act was superseded.

Governor Willard ignored the need for a population count in his biennial message for 1859 and, although an enumeration bill was introduced in the House, it failed to pass.[178] In 1861 three governors addressed the legislature and never once mentioned the lack of an enumeration or the need for an apportionment.[179] Lawmakers, distracted like the governors by secession and Civil War, failed to act on apportionment during both the regular and special sessions. In 1863, the year that Oliver P. Morton refused to address the legislature in person, the governor's printed message ignored both enumeration and apportionment. A gerrymander, which would have passed easily over a veto, was a factor in the Republican bolt that broke up the legislature. In 1865, with Republican majorities in both houses, Morton finally remembered to ask for an enumeration bill. The legislature acted during the special session in November, and a new count was made in 1866.[180]

Republicans controlled the legislature in 1867 and Representative James B. Belford spoke for all majorities for all time regarding legislative apportionment: "When we have a good thing we should keep it, and do everything to insure the success of the . . . party."[181] Belford's rule governed legislative districting in Indiana throughout the nineteenth century as partisanship always determined district lines and ratios of population to seats. The state Supreme Court confirmed this "well known historical fact" in 1892 when it stated that "as each party succeeded to power . . . it endeavored . . . to retain that power . . . very often in total disregard of the Constitution of the State demanding equality in representation."[182]

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[176] The act passed 62 to 17 in the House and 29 to 13 in the Senate. *House Journal*, 1857, pp. 1089-92; *Senate Journal*, 1857, pp. 729-32, 734-36, 797.

[177] *Laws*, 1857, pp. 6, 7. The "combined fractions" included Vanderburgh and Posey counties, Harrison and Washington, Johnson and Morgan, Shelby and Hancock, Hendricks and Boone, Wabash and Kosciusko, and LaGrange and Elkhart. Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:33-34 and Appendices G-1, G-2.

[178] *Senate Journal*, 1859, pp. 15-23; *House Journal*, 1859, p. 821.

[179] *Senate Journal*, 1861, pp. 19-28, 52-57, 88-89.

[180] *House Journal*, 1865, p. 30; *Laws*, 1865 (s.s.), 41-47.

[181] Indianapolis *Herald*, January 24, 1867.

[182] *Parker et al.* v. *The State, ex rel. Powell*, 133 Ind. 199.

The trick was to draw districts from contiguous counties in such a way as to ensure an increase in Democratic or Republican seats while retaining a surface appearance of equal representation for each district. The Hamilton-Tipton House district of 1867 illustrates the process. According to the enumeration of 1866 an ideal House district should contain 3,400 eligible voters. Hamilton County, with 4,203 voters, was given one representative, which left the county with a surplus of 803 voters. Tipton, with 2,116 voters, was 1,284 short of the figure needed for a representative. Hamilton's surplus was used as justification for combining Hamilton's population with Tipton's to form one district which was allotted one representative. But all of Hamilton County voted in the Hamilton-Tipton district, which meant that Hamilton had one representative exclusively and dominated the balloting for another. The act of 1867 established four similar districts.[183] (See Appendix B, Maps 25-26.) Each contained counties varying greatly in population; in each, the larger counties had separate representation while the smaller ones had no representation outside of the combined district.[184]

The Democratic minority of 1867 became the Democratic majority of 1871. Although apportionment was not due until 1873, a gerrymander was prepared and the Republican state organ declared " . . . should this bill become a law, the Republican party might carry the State [in 1872] by 15,000 majority, and yet under its provisions the Democracy would still control both branches of the General Assembly . . . ."[185] With Oliver P. Morton's United States Senate seat up in 1873, the bill was of more than ordinary concern to Republicans. William W. Conner of Noblesville, son of pioneer state Senator John Conner and nephew of William, was especially outraged. Conner held the seat from the Hamilton-Tipton floterial of 1867, a seat he was sure to lose because Democrats proposed to make Hamilton and Tipton counties "precisely equal" even though Tipton had less than half of Hamilton's population.[186] No number of Republican complaints could stop the bill in the House, however, because Democrats controlled it 56 to 44.

Senator Morton and Schuyler Colfax, the vice-president of the United States, directed Republican strategy from Washington, D.C. They borrowed a page from

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[183] The Allen-Adams Senate district and the La Porte-Starke, Kosciusko-Fulton, and Clark-Jefferson-Scott House districts. *Senate Journal*, 1867, pp. 434-40, 563-64; *House Journal*, 1867, pp. 661-62, 681-83; *Laws*, 1867, pp. 181-82. For an analysis of the apportionment, Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:37-41 and Appendices H-1, H-2.

[184] Districts of this type became common in Indiana and variations appeared in several other states. Such districts came to be called "floterial districts" in the twentieth century, but the term floterial was unknown in the nineteenth century. Leon Wallace nonetheless said that all Indiana apportionments from 1867 to 1965 created "unbalanced floterials"—*i.e.*, districts consisting of counties differing greatly in size with at least one county having separate representation while at least one other had no representation outside of the floterial. Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:34-37. The U.S. Supreme Court declared floterials unconstitutional in the 1960s and required the creation of state election districts that would approximate the rule of "one person, one vote." See below, pp. 502-3.

[185] Indianapolis *Indiana Journal*, February 24, 1871. The proposed bill is in *Brevier*, 1871, pp. 269-70.

[186] *Brevier*, 1871, p. 348.

the Democratic assemblymen of 1869 and ordered assembly Republicans to "defeat . . . Legislative apportionment, even by resigning if necessary."[187] After the bill passed the House, Morton wired "strictly private" instructions almost daily to Lieutenant Governor Will E. Cumback, who presided over a Senate that was Democratic 25 to 24. "Occupy the chair constantly!" Morton advised. "Decline to sign all bills." Cumback did as he was told and adjourned the Senate *sine die* on February 27, after thirty-four Republicans in the House broke a quorum by resigning. The General Assembly consisted of two houses, Cumback ruled, and if one could not function it paralyzed the other.[188] Some Democrats in the House wanted to stay on without a quorum but Isaiah B. McDonald convinced them "We are defunct . . . played out . . . up a stump. . . . Let us . . . go home, and save the people at least ten or twelve thousand dollars."[189] Speaker William G. Mack then adjourned the House.

The 1871 session broke up before an appropriation bill passed and Governor Conrad Baker waited until after Republicans swept the 1872 elections to call a special session. The 1872 special session, with Republican majorities, was counted as part of the 48th General Assembly that convened in regular session in 1873. The special session provided the governor with an appropriation, reelected Oliver P. Morton to the United States Senate, and enacted an apportionment that was "no better than its predecessors and no worse than those which would follow." A new touch called "double districting" was added to floterials. This device put counties with less than 3,789 voters (the ideal size) into two districts with larger counties. Such districts overrepresented the smaller counties, underrepresented the larger ones within them, and gave the whole area its proper ratio.[190] (See Appendix B, Maps 27-28.) Although Democrats protested the gerrymander as outrageous, it was used until the election of 1880.[191]

In 1879 Representative James Osborn, Jr., a Greenbacker from Vermillion County, wanted to divide the state into equally populated districts without regard to politics. Osborn's motion was tabled; and Democrats enacted "a repetition of the time-disgraced measures on this subject."[192] Minority Republicans issued the routine protests against an "infamous" gerrymander.[193] Democrats were especially innovative with floterials, doing indirectly that which could not be done directly—*i.e.*, they formed districts from noncontiguous counties.[194] Although the constitutionality of the act was never tested while it was in effect, the state Supreme Court did declare such floterials unconstitutional in 1892. "Counties

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[187] Colfax, Morton *et al.* to Will Cumback, February 20, 1871, Cumback Papers, Lilly Library, Indiana University, Bloomington.

[188] Morton to Cumback, February 21, 23, 24, 25, 1871, *ibid.*; *Brevier*, 1871, p. 377.

[189] *Brevier*, 1871, p. 365; for the resignations, *House Journal*, 1871, pp. 959-61, 966-67.

[190] *Laws*, 1872 (s.s.), 43-46. For the quotations and an analysis of the act, see Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:41-42 and Appendices I-1, I-2.

[191] *House Journal*, 1872 (s.s.), 653-55.

[192] Indianapolis *News*, February 14, 1879; *House Journal*, 1879, p. 88.

[193] *Brevier*, 1879, pp. 143, 219, 232.

[194] For an analysis of the act, Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:42-47 and Appendices J-1, J-2; for the act, *Laws*, 1879, pp. 38-41.

fully represented can not . . . be used for the purpose of joining counties which are not otherwise contiguous," the court declared. Otherwise, it added, Marion County could be made contiguous to Vanderburgh.[195] Since the court did not void the 1879 apportionment until seven years after it was superseded, the bill's constitutionality had no bearing on the sessions where it was used—1881, 1883, and 1885. (See Appendix B, Maps 29-30.)

In 1885 a Democratic General Assembly enacted the only apportionment act between 1879 and 1897 that was not declared unconstitutional by the state Supreme Court. The act did not escape censure because of any intrinsic merit. To the contrary, the justices stated in *Denney et al.* v. *The State, ex rel. Basler* (144 Ind. 503) that the 1885 legislation was replete with the evils condemned in *Parker et al.* v. *The State, ex rel. Powell* (133 Ind. 178). But the court, in declaring the apportionments of 1879 and 1891 unconstitutional, refused to address the validity of the 1885 act out of fear that the state would be left with no constitutional apportionment. In declaring the acts of 1893 and 1895 invalid, the court refused to investigate the 1885 act for the same reason. In *Fesler et al.* v. *Brayton* (145 Ind. 71), the court refused a third time to pass on the 1885 apportionment because it was the only act under which the 1896 election could be held. The judges feared that if they found the act defective and struck it down they might lead the people "into the troubled sea of anarchy . . . . The government of the State would be at an end."[196] In this way the Democratic gerrymander of 1885, condemned in bitter and blistering terms by the minority at the session, governed state elections until 1898.[197]

The 1885 act made ingenious use of floterials. For example, an ideal Senate seat would represent 9,893 voters. Marion County, with 29,812 voters, was entitled to three senators. But Marion County elected Republicans, so it received only two separate senators plus a joint senator with Shelby and Hancock counties. Both of the latter had Democratic pluralities in excess of the Republican plurality in Marion County. Largely Democratic Hancock County was joined with narrowly Republican Rush County in a second joint district while Democratic Shelby County was coupled with Republican Decatur County in a third. Similar methods were used to draw House districts as Democrats carved up the state so as to ensure themselves a majority in the legislature until the late 1890s.[198] (See Appendix B, Maps 31-32.)

Congressional Districting

The General Assembly passed five congressional districting bills between 1850 and 1890. Ideally, one should have passed at the first session after each

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[195] *Parker et al.* v. *The State, ex rel. Powell*, 133 Ind. 199.

[196] Quotation, *Fesler et al.* v. *Brayton*, 145 Ind. 77. For an analysis of the court's decisions, Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:44-53.

[197] *House Journal*, 1885, pp. 1130-32; *Senate Journal*, 1885, pp. 559-61.

[198] *Laws*, 1885, pp. 62-64. For a contemporary critical analysis, see Indiana Republican Committee, *The Infamous Gerrymander* (n.p., 1887), pamphlet in Indiana Division, ISL. See also Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:Appendices K-1, K-2.

United States census.[199] Only in 1852 and 1872, however, did the legislature come close to meeting this ideal. On both occasions action was prompted by an increase in the state's representation (to eleven seats after 1850 and to thirteen after 1870). Partisanship dictated the timing of the other bills in 1867, 1879, and 1885. In all five instances, lawmakers encountered problems similar to those posed by state apportionments.

The first districting bill of the period passed at the long session of 1851-1852 that implemented the new Constitution. Although the Democratic party dominated both houses, some leading Democrats fought the bill. William S. Holman, Robert Dale Owen, and William H. English wanted districting that would enhance their individual chances for a congressional seat; each voted with the Whig minority in the House.[200] In the Senate, Democrat Samuel S. Mickle moved with Whig George G. Dunn to amend the title to "An Act to gerrymander the State . . . and disfranchise a portion of the people . . . ." Dunn had served in Congress and was convinced the bill would ruin his chances to return. After the bill passed, he filed a formal protest and resigned from the legislature.[201] In 1852 Democrats won nine of the eleven seats under the bill; but Fusionists won five seats in 1854 and for the balance of the bill's life the parties split the seats almost evenly.[202] (See Appendix C, Map 55.)

Bolts and threats of bolts prevented passage of another bill until 1867. For example, Republicans introduced a districting bill in 1861 and Democrats walked out. The bolters typified the cavalier attitude of both parties; "I saw them pretty nearly all in a batch, and the answer was, 'Tell them to go to hell,'" said the Republican doorkeeper who tracked down the absentees. "I move that we don't do that [go to hell]," said Senator Michael D. White with levity. After White's motion was agreed to, Republicans dropped redistricting and the Democrats returned.[203] The Republican bolt in 1863 prevented a Democratic redistricting.

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[199] It is not clear that a state legislature was obliged to pass a congressional districting bill after each census. The U.S. Constitution provided that an apportionment must be made within three years of the first meeting of Congress, and "within every subsequent term of ten years." While the Constitution did not state that a new apportionment must be made after each census, such a requirement may be inferred. In 1850 Congress stipulated by law that an apportionment should be made after the Census of 1850 and after each subsequent decennial census. The stipulation was never enforced. See Congressional Quarterly, Inc., *Congressional Quarterly's Guide to the Congress of the United States: Origins, History and Procedure* (Washington, D.C., 1971), especially "Reapportionments and Redistricting," 499-516; Kenneth C. Martis, *The Historical Atlas of United States Congressional Districts, 1789-1983* (New York, 1982).

[200] *House Journal*, 1851-52, pp. 601-2. Holman and English both won seats in Congress under the act: English served for four consecutive terms beginning in 1853; Holman served almost continuously from 1859 until his death in 1897. A federal law of 1842 provided that districts must be of "contiguous territory" and an act in 1872 said districts should contain "as nearly as practicable an equal number of inhabitants." Congressional Quarterly, Inc., *Congressional Quarterly's Guide to the Congress of the United States*, 502, 504.

[201] *Senate Journal*, 1851-52, Mickle-Dunn amendment, 437, Dunn protest, 464-68. Dunn was elected to Congress in 1854.

[202] For the act, *Laws* (revised), 1852, 1:521-22.

[203] *Brevier*, 1861, p. 346.

Passage of the anti-bolting bill in 1867 assured that a quorum would be maintained and Republicans took advantage of the first opportunity their party had to divide the state into congressional districts.[204] (See Appendix C, Map 56.)

The Census of 1870 showed that Indiana was entitled to thirteen seats. Democrats controlled the legislature in 1871 when Republicans resorted to mass resignations to prevent passage of Democratic gerrymanders of state and congressional districts. After 1871 congressional districting went hand in hand with state apportionments. Republicans drew the boundaries for the districts in 1872 while Democrats drew the lines in 1879 and 1885.[205] (See Appendix C, Maps 57-59.) The minority protested each districting in words similar to those used to denounce the act of 1885. According to the Republican state committee "every one" knew that Democrats created "outrageously unfair" districts. Why? Because Republicans calculated that Democrats would control ten of the thirteen seats.[206] Such partisanship always prevailed as without exception the majority party at the time carved district boundaries to increase the number of its seats.

The Constitution of 1851 mandated six-year apportionment cycles and intended that legislative districts would be as nearly equal as possible in population. The failure to apportion the state accordingly constituted gross dereliction by the General Assembly. Faulty apportionments struck at the vitals of a government "republican in form" in which power was to be exercised by elected officers and representatives governing according to law. Malapportionment prevailed when there was no apportionment law because lawmakers failed to act or if the law was purposefully deficient. Four regular sessions (1857, 1863, 1865, and 1867) and one special session (1865) met after elections held under an outmoded apportionment. Except for 1868, all of the congressional elections in the 1860s were held under a districting bill based upon the Census of 1850. After 1867 state apportionments were made on time but on such a baldly partisan basis as to deny equal representation. The state Supreme Court found the 1879 act unconstitutional on precisely such grounds and strongly inferred that the 1885 act was likewise vulnerable. Congressional elections in 1882 and 1884 were held under a bill based upon the Census of 1870. Further, although black males were enfranchised by 1870, they were not included in apportionment until the word "white" was stricken from Article 4, section 4, of the state Constitution in 1881. This meant that seven regular and six special sessions met after elections at which blacks voted but were not counted in drawing state districts.

Recurring delinquent apportionments were evidence of legislative malfeasance. They were also part of a larger failure to meet other fundamental obligations of a state legislature. For example, the General Assembly alone could appropriate

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[204] *Laws*, 1867, anti-bolting act, 131, districting act, 108.

[205] *Ibid.*, 1872 (s.s.), 16-17; *ibid.*, 1879, pp. 103-4; *ibid.*, 1885, pp. 68-69.

[206] Indiana Republican Committee, *Infamous Gerrymander*, 2.

funds to operate state government. Yet the need for revenue led Indiana governors to call nine special sessions between 1858 and 1885 after regular sessions failed to pass appropriation bills. On two occasions (1857 and 1863) the failure was a deliberate ploy to force legislative dictates upon a reluctant executive. The General Assembly also found appropriations a convenient means of circumventing the sixty-one day limit on regular sessions. After 1872 every special session during the era followed immediately upon the close of a regular session that had failed to pass a revenue bill.

Other manifestations of malfunctioning grew out of United States Senate elections, control of the militia during the Civil War, and the ratification of an amendment to the federal Constitution. The election of senators halted the legislative process in 1855 and 1857. The bitter conflict with Governor Morton over the militia had the same effect in 1863. The enfranchisement of blacks paralyzed proceedings in 1869 and cast doubt on the legality of the ratification process. The state Senate's refusal to seat an elected lieutenant governor capped an era of irresponsibility in 1887. The session broke up amidst violence and threats of bloodshed with little significant legislation having been passed.

The fiasco of 1887 brought nearly four decades of persistent legislative dysfunction to a close. After 1890 the General Assembly was more responsible in meeting basic obligations. Although the legislature continued to elect United States senators until 1914, no such election paralyzed legislative proceedings. Appropriation bills also were nearly always passed on time so that special sessions became less routine. There was continued irresponsibility, however, with respect to state apportionments. The legislatures of the 1890s passed bills at four consecutive sessions before the state Supreme Court found one in 1897 that was constitutional. The repeated refusal to deal responsibly with apportionment was the one shortcoming that persisted into the twentieth century. The state Constitution continued to mandate enumerations and apportionments every six years. But the legislature passed acts that withstood tests of constitutionality only in 1905, 1915, and 1921. After 1921, it did not pass another apportionment act until 1963. In that year it acted only because the federal courts threatened to impose a reapportionment plan on the basis of one person, one vote. For forty-four years, a time span embracing more than seven apportionment cycles, the Indiana General Assembly failed to meet the clear mandate of the state Constitution. The precedent for ignoring essential constitutional mandates was established during the era of legislative dysfunction between 1851 and 1889.

Chapter 6
The Constitutional and Political Context

Indiana entered the second half of the nineteenth century with a new Constitution that marked a turning point for the state and its legislature. The record suggests that initially it was a turn for the worse for the General Assembly. Logan Esarey, the first trained historian to prepare a comprehensive history of Indiana, wrote that the second Constitution "suffers in comparison with the one it displaced." Esarey added that in the legislature "a vast field opened for sinister partisan politics."[1] For nearly forty years (until 1890) party frequently held sway to the exclusion of responsible representative government. Partisanship became less responsible than previously, partly, as Esarey suggested, because of the new Constitution. But partisanship became less responsible primarily because of the issues dividing politicians during the first decades under the document of 1851. There was little room for compromise on citizenship and suffrage for blacks and women or on the strict regulation of alcoholic beverages. Total partisanship became totally irresponsible and engendered behavioral patterns that made dysfunction the norm in the state's legislative process.

Whatever their shortcomings, general assemblies under the 1816 Constitution had always risen above party to meet minimal legislative obligations. They never once failed to appropriate funds so that state government could function. They never once failed to pass apportionment bills at mandated intervals. Whenever necessary they also divided the state into congressional districts and elected United States senators: Indiana was never without its full complement of representatives in Washington during the pioneer period.

By contrast, these minimal obligations were rarely met on time by the general assemblies that convened in twenty regular and ten special sessions between 1851 and 1889. Lawmakers failed to pass an appropriation bill at least ten times during a regular session. They passed only five of the six apportionment acts required by the Constitution and none at the required time until 1867, sixteen years after the document took effect. Inter-party wrangling at the 1855 session caused the state to be without full representation in the United States Senate for eighteen months and ended with four claimants in 1858 to Indiana's two seats. The disruption of the legislative process in the 1860s is usually blamed on the Civil War and its aftermath. In both 1863 and 1869 the legislature ceased to function for practical purposes when fights over war policy and ratification of amendments to the United States Constitution divided members into irreconcilable partisans. But the persistence of legislative disorders in the 1870s and 1880s indicates troubles more deep-seated than differences growing out of the Civil War. In the 1870s failures to pass appropriation bills within the mandated

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[1] Logan Esarey, *A History of Indiana From Its Exploration to 1850* (2 vols., Fort Wayne, Ind., 1924), 1:519.

sixty-one days necessitated four special sessions. In 1887 the fight over a United States Senate seat was so bitter that the legislative process again practically ceased. This fiasco, when the two houses refused even to accept messages from one another, marked the nadir for the General Assembly during the nineteenth century and climaxed four decades of legislative dysfunction.

The second Constitution was partially to blame. This was ironic since a majority (79) of the 150 men who drew it had previous experience as lawmakers. And their work was certainly not hurried. In contrast to the first convention, where less than fifty delegates completed their work in eighteen days, the second convention lasted 127 days, October 7, 1850, to February 10, 1851. During that time every article and section was studied and debated thoroughly. Delegates had little difficulty adopting those reforms that had been widely heralded as necessary. Two of the reforms, however, weakened the stability of the legislature: the substitution of biennial for annual sessions and the imposition of time limits of sixty-one days on regular sessions and forty days on special sessions.[2] The change to biennial sessions of specified length was intended to cut the costs of state government. The result was otherwise. The increased time between sessions weakened the legislature's sense of continuity, an especially important loss in the House where the members were newly elected every session and a majority customarily had no previous legislative experience. The sixty-one day limit was intended to prevent the General Assembly from doing mischief. The limit led instead to hurried and ill-considered lawmaking in the closing days and hours of each session. This proved especially true for biennial appropriations, always passed as the last matter in the closing hours.

The Constitution of 1851

The second Constitution was drawn from its 1816 predecessor, from the constitutions of other states, from resolutions submitted by delegates on behalf of constituents, and from recommendations of committees or motions by delegates from the floor. The finished document reflected the Jacksonian faith of the majority Democrats. The number of elected offices was greatly increased and included all judges, though not justices of the Supreme Court, plus the principal administrative officers such as treasurer, auditor, and secretary of state. Suffrage was extended so that even unnaturalized citizens could vote after a six month residence in the state. The more important reforms embodied in the document included the exemption of homesteads from liquidation for debt, abolishing legislative divorce, and forbidding local (or special) legislation. Voters ratified

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[2] Louisiana became the first state to impose a time limit on sessions when it fixed a period of sixty days in 1845. Virginia and Kentucky followed with fixed periods in 1850, while Maryland and Indiana adopted the plan in 1851. Sixteen other states followed with statutory limitations on the length of sessions later in the nineteenth century. For limiting the length of sessions, see Robert Luce, *Legislative Assemblies: Their Framework, Make-up, Character, Characteristics, Habits, and Manners* (Boston and New York, 1924), 138-47. Luce concluded (p. 142) "It seems incredible that men should have expected from the curtailment of sessions any result other than that which has actually followed. Everywhere it has produced bad work, slovenly, slipshod, hurtful."

the Constitution in August, 1851, and it took effect the following November 1.[3]

Article 4 vested legislative authority in a bicameral legislature consisting of a Senate and a House of Representatives. The former could not exceed fifty members, the latter could not exceed 100 members. Terms of office were four years for senators, two years for representatives; at the 1853 session senators were to be divided equally into two classes, with the seats of one class vacated after two years. Then, beginning with the 1854 Senate elections, "one half or as nearly as possible, shall be chosen biennially forever thereafter." Members had to be American citizens who had lived in the state for two years prior to their election and in the county or district they represented for one year. Senators had to be at least twenty-five years old, representatives at least twenty-one. Once elected, members were not subject to civil process during or for fifteen days prior to the commencement of a session. Except for treason, felony, and breach of the peace, they were privileged from arrest during and while traveling to and from sessions. They could not be held legally liable for any speech or debate on the floor.

Regular sessions were to convene biennially on Thursday following the first Monday in January, beginning in 1853; the governor could call a special session anytime. The session of 1851-1852 was exempted from the sixty-one day limit on regular sessions in order that it might implement the new Constitution. The provisions regarding seating, rules, officers, discipline, and the keeping of *Journals* were essentially the same as before. Members were to be compensated in an amount fixed by law and no increase in compensation could take effect during the session in which it passed.

Many provisions regarding the introduction and processing of bills were retained from the first Constitution. But there were important changes. For one, every act could embrace only one subject, which had to be expressed in its title. All acts and joint resolutions were to be plainly worded and avoid, so far as practicable, the use of technical terms. Except in cases of emergency, every bill had to be read by sections on three separate days in each house, thus requiring not less than six days to pass. No bill could pass without receiving in each house, on a call of the ayes and nays, a majority of all members elected. (During the pioneer period, the rules might be suspended and a bill taken through all readings in both houses on the same day, by merely repeating the title, and then might pass by a bare majority of a quorum, and without the ayes and nays.) Sections 22 and 23 addressed the evil of special legislation, which had grown into unmanageable proportions during the pioneer period. The General Assembly was forbidden to pass such laws and many examples were specified. The enumeration included laws for the punishment of crimes and misdemeanors; laws regulating court practices; laws granting divorces; laws changing the names of persons; laws vacating roads, streets, alleys, and public squares; laws regulating

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[3] Charles Kettleborough, *Constitution Making in Indiana* (3 vols., Indianapolis, 1916, 1930), 1:221-22. See also Lena London, "Homestead Exemption in the Indiana Constitution of 1851," *Indiana Magazine of History*, 44 (1948), 267-80.

county and township business; laws for the assessment and collection of taxes; laws establishing schools; laws for holding elections; and laws for disposing of the estates of minors or other legally disabled persons. In this manner the state was restored, in the words of a Supreme Court decision in 1853, "from being a coterie of small independencies . . . like so many counties palatine, to . . . a unity, governed throughout . . . by the same laws, general and uniform in their operation . . . ."[4] No law could take effect until it was published and circulated in the several counties by state authority. In cases of emergency, a law would take effect immediately upon its being signed by the governor if the emergency were declared in the preamble or in the body of the law.[5]

Article 1, the Bill of Rights, was almost the same as the analogous article in the 1816 document. Article 2, on suffrage, disqualified from office anyone who offered or accepted a bribe to secure election, or who participated in a duel. No one could sit in the General Assembly who held an office or appointment under the United States or state governments. Elections by the people were to be by ballot; all elections by the General Assembly were to be *viva voce*.[6] Article 5, on the executive branch, said election returns for governor and lieutenant governor were to be sealed and directed to the speaker of the House who would open and publish them in the presence of both houses. In the event of a tie, the General Assembly would choose the winner; if an election were contested, the legislature was to determine the outcome in the manner prescribed by law.[7] Article 6, on the administrative branch, empowered the General Assembly to remove state officials either by impeachment and conviction, or by a joint resolution passed by two thirds of the members elected to each house. County, township, and town officers could either be impeached or removed in the manner prescribed by law.[8] Article 10, on finance, said that the General Assembly should provide for a uniform and equal rate of assessment and taxation. At the same time, in response to the internal improvements fiasco, the legislature was forbidden to contract any debt on behalf of the state.[9] Other articles required lawmakers to encourage education by all suitable means and to provide by law for a uniform system of common schools; to provide by law for benevolent institutions and a reform school for juveniles; and directed the legislature to follow certain procedures when incorporating banks or other corporations.[10]

Many of the men who crafted the Constitution and implemented it at the long session of 1851-1852 were prominent in state and national politics during the next forty years. Thus, they witnessed the persistent malfunctioning of the

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[4] *Maize* v. *The State*, 4 Ind. 348.

[5] Kettleborough, *Constitution Making in Indiana*, 1:310-23; concluding remarks of Speaker of the House William H. English, *House Journal*, 1851-52, p. 2209.

[6] Kettleborough, *Constitution Making in Indiana*, 1:305-8.

[7] *Ibid.*, 324-25.

[8] *Ibid.*, 337.

[9] *Ibid.*, 350-52. The only exceptions to the ban on debt were cases of temporary financial exigency, insurrection, or invasion.

[10] *Ibid.*, 346, 350, 354-58.

legislature between 1851 and 1889. Almost none of them, however, traced the difficulty to any flaw in their work. When the survivors met for a reunion in 1885, members of both political parties boasted of their handiwork. Democrat Thomas A. Hendricks, the vice-president of the United States, said of the change to biennial sessions that "experience has shown the wisdom of the change." He added that the Constitution as a whole prevented log-rolling, meant legislation was conducted more carefully, and assured that laws were more stable. Judge William E. Niblack of the state Supreme Court spoke in a similar vein, as did William H. English, secretary of the convention and speaker of the House during the long session.[11] Long time Congressman William S. Holman went even further, stating that the work of 1850-1852 "will stand up secure against every vicissitude of time."[12] William McKee Dunn, representing a Whig-Republican viewpoint, suggested that the Negro exclusion clause was a shortcoming. Dunn then reminisced at length on the wonders wrought by the Constitution for banking, education, and benevolent institutions.[13]

Political Parties to 1890: An Introduction

The Constitution of 1851 made state politics more volatile because, in the words of one historian, "With more offices to strive for and more voters eligible to cast their ballot, the political pot could boil more vigorously."[14] Two major parties kept the pot boiling except for a brief interlude after the Whig party's demise in 1854. Otherwise the state remained basically a two party bulwark during the second half of the nineteenth century. With a few exceptions after 1856, Hoosier politicians vied for popular favor either as Democrats or Republicans. These parties nominated almost all township, town, city, and county officials. State judges were likewise nominated and elected as Democrats or Republicans. Governors and administrators were elected or appointed as partisans. At every session of the legislature, each house selected its leaders and chose its officers on a party basis. Party leaders and elected officials dispensed favors and patronage unabashedly on the sole basis of party.

These parties organized at the lowest level in precinct, township, town, and city units. These units coalesced into a county organization composed of a central committee presided over by a county chairman. For members of the General Assembly the county organization was the most important because nomination for the legislature was secured normally at the county convention. Thus, aspirants sought the chairman's blessing; once this was won, endorsement by the convention

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[11] "The First Reunion of the Surviving Members of Indiana's Last Constitutional Convention" and "Early Lawmakers—Reunion of the Surviving Members of the Legislature of 1851 and Previous Legislatures," Indianapolis *Sentinel*, October 6, 7, 1885.

[12] William S. Holman, *The Constitutional Convention of Indiana of 1850-'51. The Reforms It Accomplished* (Washington, D.C., 1886), 12.

[13] "Remarks of General William McKee Dunn, Indianapolis, October 5, 1885, at the Reunion of the Surviving Members of the Indiana Constitutional Convention of 1850," 2-3, typescript in Indiana Division, Indiana State Library, Indianapolis.

[14] Roger H. Van Bolt, "Indiana in Political Transition, 1851-1853," *IMH*, 49 (1953), 141.

was likely. In addition to slating legislative candidates, county conventions also hammered out a local platform, endorsed slates for local office, and selected delegates to state conventions. These met biennially in election years, usually in the spring, and always in Indianapolis. Here the party took its stand on state and national issues, slated a state ticket, and drew up its state platform. The state convention also selected a central committee composed of a chairman and one representative from each congressional district. This committee operated the state headquarters, most often from a set of rooms in an Indianapolis hotel. The most important work came during the fall elections when the state headquarters allocated funds, arranged speaking schedules, and printed campaign literature.[15]

The papers of Democrat William H. English (House, 1851-1852) and Republican Henry S. Lane (House, 1837-1838) offer insight into the importance of parties. Both men corresponded extensively during careers that, in both cases, spanned almost forty years of Indiana politics. English began as a clerk of the House at the 1843-1844 session and his last party work was as chairman of the state central committee in 1880 when he also ran for vice-president of the United States. In between, English was secretary of the Constitutional Convention, speaker of the Indiana House, and a congressman.[16] Lane's career started with his election to the Indiana House as a Whig in 1837 and ended with his service as delegate to the Republican national convention in 1872. In between these two dates Lane served in Congress and, after the Whig party died, he helped form the Republican party. In 1856 Lane presided at the first Republican state convention, was nominated for lieutenant governor, and chaired the first national convention. In 1860 Lane led Republicans to victory as their gubernatorial candidate; from 1861 to 1867 he served as the first Republican United States senator from Indiana.[17]

Based upon the evidence in the English papers, the Democratic party appealed particularly to small farmers, German and Irish immigrants, all Hoosiers who opposed prohibition or feared Negro equality, and, after the Civil War, to laborers in urban areas. Lane's papers suggest that Republicans found support initially among all Hoosiers who opposed slavery. The party also attracted many businessmen, wealthier farmers, nativists who feared foreigners, and Protestants who wanted prohibition and feared the Catholic church. Democrats were strongest in the southern half of the state, a region that consistently provided their margin in gubernatorial elections and usually returned more Democrats than Republicans to the General Assembly. The parties were almost equal in central Indiana, with

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[15] For the proceedings of campaigns and party platforms, see Russel M. Seeds, *History of the Republican Party of Indiana* (Indianapolis, 1899), 24-87, and John B. Stoll, *History of the Indiana Democracy, 1816-1916* (Indianapolis, 1917), *passim*.

[16] F. Gerald Handfield, Jr., "William H. English and the Election of 1880," in Ralph D. Gray (ed.), *Gentlemen From Indiana: National Party Candidates, 1836-1950* (Indianapolis, 1977), 85-116.

[17] Walter R. Sharp, "Henry S. Lane and the Formation of the Republican Party in Indiana," *Mississippi Valley Historical Review*, 7 (1920), 93-112; Ronald H. Ridgley, "Henry Smith Lane: Republican Progenitor," in *Their Infinite Variety: Essays on Indiana Politicians* (Indianapolis, 1981).

Republicans often enjoying a slight majority. In the less populated northern counties, where a preponderance of New Englanders had settled, Republicans were strongest. To win statewide, Republicans had to cut the Democratic margin in the south and attract some of the immigrant vote in the central and northern cities.[18] Republicans in southern Indiana pleaded with leaders from the outset not to abandon their region. One strategist in Evansville predicted quite accurately during the 1856 state campaign that some Germans could be won on the free soil issue.[19] By 1858 a Democrat explained his apprehensions regarding the German vote:

> I much fear that the German immigrant within the last dozen years will leave us in a body. Most of them (the less intelligent) voted the Republican ticket at our township & borough elections; while the minority say one fourth refused to vote. The wild Irish boys, as usual, vote with us . . . .[20]

Republicans forged their first victories when they captured significant German antislavery votes; during campaigns where that party endorsed prohibition it lost this vote and usually lost the election. The Irish vote remained steadfastly Democratic, but by 1880 the chairman in Warrick County feared that Republicans might even wrest these ballots away. John L. Taylor warned the state committee that Republicans "will control the Irish with money & whiskey. We could control them had we money to furnish whiskey."[21]

Only Democrats exhibited continuous staying power in the General Assembly between 1850 and 1890. Their party entered the second half of the nineteenth century with its Whig opponents on the verge of extinction. By 1860, factionalism and differences over slavery in Kansas dissipated Democratic strength in the state just as similar factors disrupted the party nationally.[22] As a result, Republicans dominated the state in the 1860s. The new party successfully associated Democrats with treason because of the latter party's impassioned defense of states' rights during the Civil War. The charge of disloyalty knocked the Democracy down, but not out.[23] By 1871, Democrats again enjoyed a majority in the legislature. A permanent resurgence was assured when Thomas A. Hendricks and James D. Williams won gubernatorial elections in 1872 and 1876.[24] In fact, Democrats controlled both houses in half of the sessions between 1870 and 1890.

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[18] This general outline regarding the geographic, ethnic, and religious strengths of the two parties is substantiated by William G. Carleton, "Why Was the Democratic Party in Indiana a Radical Party, 1865-1890?," *IMH*, 42 (1946), 207-28.

[19] F. Johnson and others to Henry S. Lane, July 21, 1856, in Lane Papers, Indiana Historical Society Library, Indianapolis.

[20] William W. Wick to William H. English, May 8, 1858, English Collection, IHSL.

[21] Taylor to English, August 24, 1880, *ibid.*

[22] For the party's national decline in the 1850s, see Roy Franklin Nichols, *The Disruption of American Democracy* (New York, 1948).

[23] For the impact of charges of disloyalty against Democrats in the free states, see Joel H. Silbey, *A Respectable Minority: The Democratic Party in the Civil War Era, 1860-1868* (New York, 1977).

[24] Horace Samuel Merrill, *Bourbon Democracy of the Middle West, 1865-1896* (Baton Rouge, La., 1953).

of both parties were "captivated . . . by the spells of his wondrous genius . . . ."[28] But the Irish in Indianapolis were not captivated by Kossuth; they viewed the revolutionist's attacks on the Austro-Hungarian monarchy as an attack upon the Catholic faith. In a letter to the *State Sentinel* the Irish threatened that Catholics would never vote for any man who supported the Hungarian or his doctrines.[29] Former Whigs such as Godlove S. Orth and Richard W. Thompson responded to the uproar over Kossuth by organizing Know Nothing lodges to "save" Indiana from Catholics and foreigners. These nativists allied with anti-Nebraska Democrats, temperance advocates, and antislavery men in the summer of 1854 to create a "people's movement." The coalition took the name Fusionists, but the machinery of Know Nothingism governed nominations, political organization, and the campaign.[30]

This "combined crusade of incoherent factions" swept the fall elections and the 1855 General Assembly became known as the Know Nothing legislature.[31] While the exact number of lawmakers "carried . . . by the ephemerate whirl wind" of Know Nothingism is unknown because the order was secret, the Fusionists included Speaker of the House David Kilgore and at least two dozen others.[32] In the Senate, Alanson W. Hendry proposed a board of visitation for "nunneries and secret religious schools." Hendry's board of "good and reputable citizens," which would free all persons restrained in convents, was defeated by a 27 to 23 vote.[33] Such proposals, when coupled with the passage of a prohibition law, led the *State Sentinel* to observe that the legislature was reverting to the "Quaker-hanging, Baptist-burning, ear-cropping days of Plymouth Rock . . . ." The newspaper sarcastically predicted that future generations would exclaim "blessed were our fathers, for, verily, they did all these things in the name of God!"[34] One Democrat concluded that his party was in a fight for survival with a "heterogeneous conglomeration of political treason[,] bigotry and fanaticism . . . ."[35]

Godlove S. Orth, state president of the Know Nothings, predicted in the flush of victory "that hereafter none but Americans in principle as well as by

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[28] John Lyle King, *Reminiscences of the Indiana Legislature of 1851-52* (n.p., n.d.), 7, pamphlet in Indiana Division, ISL.

[29] Indianapolis *Indiana State Sentinel*, March 5, 1852. The letter was signed by James B. Ryan, Patrick Barret, Patrick Cahill, M. Fogarty, Michael Shea, James Conners, and 178 others.

[30] Carl Fremont Brand, "The History of the Know Nothing Party in Indiana," *IMH*, 18 (1922), 47-81, 177-206, 266-306.

[31] Indianapolis *Indiana State Sentinel*, January 12, 1855.

[32] For the quotation, see sketch of George W. Clark by John Yaryan, Clark file, English Legislator Collection, IHSL. See also Brand, "The History of the Know Nothing Party in Indiana," *IMH*, 18:77, 181. Other Fusion-Know Nothing lawmakers included James W. Hervey, David Cain, Solomon Meredith, Horatio C. Newcomb, Charles H. Test, Robert N. Hudson, David Crane, and Philander S. Sage.

[33] *Senate Journal*, 1855, pp. 632-33.

[34] Indianapolis *Indiana State Sentinel*, February 27, 1855.

[35] Simeon K. Wolfe to William H. English, April 12, 1856, Wolfe file, Legislator, IHSL. Wolfe served in the Indiana House at the 1861 and 1863 sessions.

birth, shall rule America."[36] His prognosis proved wrong, however, because Hoosiers quit the secret order in 1855 and 1856 as rapidly as they had joined. When the American Know Nothing party adopted proslavery resolutions at its national convention in 1856, leaders in Indiana deserted it for the new Republican party. This last grew out of the antislavery element in the "people's movement" of 1854 and made its presence felt at the 1855 session when the House passed several resolutions asking Congress to repeal the Kansas-Nebraska Act.[37] It took the name Republican in 1856 and the new party proved to be the most lasting fruit of Fusion.[38] In 1856 the party slated candidates for every state office and won five of the eleven congressional seats. At the 1857 session there were twenty-five Republicans in the state Senate. When two Know Nothing holdovers joined the Republicans, the party controlled the upper house. Democrats won the House, however, 61 to 38, sufficient for a majority on joint ballot.

Jesse D. Bright, his Senate term up, had a bigger than usual stake in the 1856 election. If Bright's supporters did not dominate the 1857 General Assembly, either outgoing Governor Joseph A. Wright or some Republican would win his seat. Next to his own ambitions, Bright wanted to help James Buchanan secure the Democratic presidential nomination. Bright cajoled, threatened, and engaged in shameless double-dealing at the state convention to get his way. Ashbel P. Willard, hand picked by Bright, won the gubernatorial nomination and Bright men controlled the delegation to the national convention. At Cincinnati in June the Indiana caucus voted 16 to 10 to support Buchanan over Stephen A. Douglas although the latter was the clear favorite with Indiana's Democratic voters.[39] Bright's tactics paid off; Willard was elected governor in October, Buchanan carried Indiana in November, and the senator won his third term in January, 1857. But in the process Bright opened wounds that festered for four years and helped ruin his party by 1860.

Passion and numbers supplanted discourse and compromise in the general assemblies of the late 1850s. Slavery in Kansas, an issue that the Indiana legislature was powerless to decide, engendered the passion. Puerility replaced statesmanship on both sides in 1857 when someone surreptitiously placed an inflammatory pamphlet entitled "The Kansas Struggle of 1856 . . ." on the desks of Democratic senators, who responded with a demand that the authors of the writing be hung.[40]

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[36] Orth to Schuyler Colfax, October 14, 1854, in J. Herman Schauinger (ed.), "The Letters of Godlove S. Orth, Hoosier American," *IMH*, 40 (1944), 55.

[37] *House Journal*, 1855, pp. 141-43, 307-10, 778-80.

[38] Charles Zimmerman, "The Origin and Rise of the Republican Party in Indiana from 1854 to 1860," *IMH*, 13 (1917), 211-69, 349-412; Roger H. Van Bolt, "The Rise of the Republican Party in Indiana, 1855-56," *ibid.*, 51 (1955), 185-220. For the party's development nationally, see Hans L. Trefousse, "The Republican Party, 1854-1864," in Schlesinger (ed.), *History of U.S. Political Parties*, 2:1141-72.

[39] William O. Lynch (ed.), "Indiana in the Douglas-Buchanan Contest of 1856," *IMH*, 30 (1934), 119-32.

[40] *Senate Journal*, 1857, pp. 539-40. There were heated discussions about Kansas at each session between 1857 and 1859. *Ibid.*, 716-17; *ibid.*, 1858 (s.s.), 122-24, 287-89, 292-93; *ibid.*, 1859, pp. 358-59; *House Journal*, 1859, pp. 304-6; Ariel and William Drapier (comps.), *Brevier Legislative Reports* (Indianapolis, 1858-1887), 1859, pp. 81, 109-10.

After 1858 assembly Democrats divided into pro-Buchanan men who favored the admission of Kansas with slavery and pro-Douglas men who favored a free Kansas. Simeon K. Wolfe defined his party's dilemma: "The important question is *not* whether the decline of Douglas or Buchanan is right and should be sustained, but rather, and really, whether the administration should be sustained, or the party divided, and the government delivered over to the factions [Republicans]."[41]

The split over slavery weakened the Indiana Democracy as it drove many moderates out of the party and increased the influence of pro-southerners like Joseph Cox (Senate, 1853) and Cyrus K. Drew (Senate, 1855, 1857).[42] Cox went to Tennessee in 1861 and enlisted in the Confederate Army.[43] Although Drew did not go that far, "He was a Southern Democrat in his sympathies, and believed the Southern States had the Constitutional right to withdraw from the Union . . . ."[44] Defections gave undue prominence to some of the more reckless partisans in Democratic ranks. George P. Buell, Jr. (House, 1853) was almost assassinated at the 1856 national convention due to his strong support of James Buchanan.[45] Richard D. Slater, Sr., president *pro tempore* of the Senate in 1855, several times barely escaped assassination. Once he was mobbed at Lawrenceburg for defending slavery in Kansas and, according to his son, suffered a fractured skull, a broken jaw, four fractured ribs, plus cuts and bruises.[46] With such extremists in control, thousands of voters deserted the Democratic party.

It was apparent before the 1860 elections that the Democratic split over slavery was fatal and Republicans would soon control the federal and state governments. If that happened, said John Law of Evansville, "I would not give a cent for the Union . . . we will be dissolved beyond all question."[47] In October Republicans swept all major state offices, gained control of the General Assembly, and won seven of the eleven congressional seats. Indiana also helped elect Abraham Lincoln president of the United States.[48]

The Parties in the 1860s

By 1860 both parties could paralyze the legislature by carrying partisanship to extremes. They might even prevail as a minority because of the provision in

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[41] Wolfe to William H. English, January 12, 1858, Wolfe file, Legislator, IHSL. Emphasis in original.

[42] For examples of moderate Democrats who became Republicans, see Richard M. Haworth, Reuben S. Ragan, John L. Stone, and John L. Roe files, *ibid.*

[43] Statement by subject in Cox file, *ibid.* Cox opened a law practice in Paoli after the war and received "a liberal patronage considering the prejudice engendered towards me for going south to fight for their cause."

[44] Drew file, *ibid.*

[45] Buell file, *ibid.*

[46] Slater file, *ibid.* Slater was imprisoned for treason during the Civil War, but released without being formally charged.

[47] Law to William H. English, June 18, 1860, English, *ibid.* Law served in the U.S. House of Representatives from 1861 to 1865.

[48] The Republican margin in the Indiana Senate was 28 to 22; in the House, 62 to 38. For the election, see Kenneth M. Stampp, *Indiana Politics During the Civil War* (Indianapolis, 1949), 44-48.

the Constitution that required the presence of two thirds of the members of each house to transact business. When it suited party purposes, lawmakers bolted—*i.e.*, they broke a quorum by walking out to block offensive legislation. Democrats were the first to do this in 1855 to prevent the election of a United States senator. Republicans followed suit in 1857 to prevent passage of an appropriation bill. As the nation endured the successive crises of secession, Civil War, and Reconstruction, such tactics persisted. The regular session in 1861 ended without apportionment or appropriation laws amidst Democratic threats to bolt. The failure to appropriate funds necessitated a special session after the firing upon Fort Sumter.

In 1863 constitutional government came to a standstill when Republicans bolted before an appropriation bill passed. Governor Oliver P. Morton then governed extraconstitutionally for two years as Indiana became financially subservient to the federal government. Irresponsible partisanship continued at the sessions from 1865 to 1869 as the General Assembly coped with the consequences of the Union victory. During these years Democrats fought the vast increase of federal power implied by the postwar amendments to the Constitution of the United States. In 1869, intent on upholding states' rights at all costs, they resigned *en masse* to prevent the enfranchisement of blacks.

Many of the General Assembly's difficulties could be traced to a crisis of leadership in the Democratic party. The election of 1860 destroyed Jesse D. Bright's power and the senator wound up disgraced in 1862 when he was expelled from office for favoring the Confederacy.[49] The leader of anti-Bright Democrats, Joseph A. Wright, became minister to Prussia after his term as governor ended in 1857. When Wright returned to Indiana in 1861 he became a War Democrat (or Unionist) who supported Governor Morton and President Lincoln. Wright's successor as governor, Ashbel P. Willard, was a heavy drinker who exercised little leadership. He died in October, 1860, three months before his term expired.[50] The losing gubernatorial candidate in 1860, Thomas A. Hendricks, was a congressman and commissioner of the General Land Office in Washington, D.C., during the 1850s. In 1863, Hendricks returned to Washington as United States senator, an office he held when his leadership was needed most sorely by his party at home. William H. English left politics in 1861 after four terms in Congress to tend to his banking interests. He remained inactive politically throughout the 1860s. William S. Holman began his long congressional career in 1859 and was, like Hendricks, in Washington for most of the decade. No one of similar stature replaced these men as the Democratic party floundered from crisis to crisis, bereft of leadership and vulnerable to charges of disloyalty because of the actions of a few pro-southern extremists.

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[49] For the particulars, see below, pp. 200-1.

[50] William C. Thompson, an Indianapolis physician who served later in the state Senate, wrote in 1858 that Governor Willard "continues to drink hard. He looks bloated." A year later it was reported that Willard's face was "as red as ever" because he drank too much. See Thompson to Joseph A. Wright, July 21, 1858, and James Swan to same, October 18, 1859, in Wright Papers, Indiana Division, ISL.

As the nation girded for war in 1861, challenges to duels and threats of bodily harm became ingredients in Indiana's legislative process. The House early in the regular session resolved to expel any member who gave or accepted a challenge to a duel.[51] But the threat of expulsion did not deter Gideon C. Moody and Horace Heffren from meeting on a field of honor. Republican Moody (Jasper County) accused Democrat Heffren (Washington County) of treason. The two met at dawn on February 11 in Campbell County, Kentucky, but reached a settlement before fighting a duel. Although both men were arrested by the sheriff when they returned to Newport, Kentucky, the House failed to act against either man.[52] During the special session Democrat Francis P. Smith (Bartholomew County) was warned that anyone who impeded military appropriations "will never . . . leave Central Indiana." This threat was signed "VIGILANCE COMMITTEE." Smith replied that he would act as his judgment dictated "though my body be taken from this hall as a corpse."[53]

In the midst of wartime hysteria it proved a short step from challenges for a duel and anonymous threats to bloodshed. In 1861, Representative Lewis Prosser introduced a bill to repeal an act of 1859 that made it unlawful to carry a concealed weapon in Indiana. Prosser explained that he did not seek repeal for personal reasons since he lived "in a rural district amongst peaceable folks."[54] The repeal bill did not pass. Prosser was shot to death on June 17, 1863, while making a political speech at Nashville. He attempted to draw a weapon in self-defense but was killed instantly, murdered by a Union soldier inflamed by Republican propaganda that depicted Democrats as disloyal for their actions at the 1863 session.[55] Prosser was the only member of the General Assembly during the Civil War who paid for his political convictions with his life.

The Democrats' tactics at the 1863 session grew out of their conviction that Lincoln's emancipation policy had converted the war from a constitutional conflict to preserve the Union to an unconstitutional crusade against slavery. The partisan moves which earned Republican condemnation included a bill to apportion the state in a way favorable to Democrats. Another bill pushed by the majority proposed to pack the board of benevolent institutions. But the bill that occasioned a Republican bolt would have curbed Governor Morton's power by reorganizing the state militia. Although the bill "conformed in every respect to the letter of the state constitution," Republicans assailed it as unconstitutional and treasonable.[56] Republicans walked out on February 25, 1863, and the General

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[51] The House acted after Republican Henry Feagler (DeKalb County) and Democrat Marcus A. O. Packard (Marshall County) exchanged verbal insults. *Brevier*, 1861, p. 160; Indianapolis *Indiana Journal*, February 2, 4, 1861.

[52] Indianapolis *Indiana Journal*, February 12, 13, 1861; *Brevier*, 1861, pp. 216, 228-29. Moody moved to South Dakota where he served in the territorial legislature and at the constitutional convention. He also served in the U.S. Senate from 1889 to 1891. Moody file, Legislator, IHSL. For Heffren's career, see below, pp. 268-69.

[53] *Brevier*, 1861 (s.s.), 78.

[54] *Ibid.* (r.s.), 131.

[55] Indianapolis *News*, February 4, 1899; Prosser file, Legislator, IHSL.

[56] Stampp, *Indiana Politics During the Civil War*, 177.

Assembly ended on March 9 without passing any significant legislation.

The closest student of state politics during the Civil War concluded that "rank partisanship and not treason . . . discredited the Indiana legislature of 1863. For that Republicans and Democrats were equally responsible."[57] Republicans succeeded, however, in convincing the public that Democrats were disloyal. They used the word Copperhead to describe traitors who lurked about in secret societies determined to aid the Confederacy by impeding the Union war effort. All northern non-Republicans, whether they were Peace Democrats, conservatives, members of secret societies, or outright Confederate sympathizers, were indicted as Copperheads.[58]

A discerning Democrat noted near the end of the session in 1863 that his party had "blundered until the Republicans have gained the vantage ground."[59] Republicans hung the albatross of treason so firmly on Democrats that the latter remained a minority until the session of 1871. Indeed, Indiana Republicans made political capital until the end of the nineteenth century by charging Democrats with failure to stand with Lincoln and the Union. A quarter century after the war ended, Republican assemblymen still fondly recalled how the legislature was divided into "the friends and foes of the Union" because Democrats sponsored "dangerous and tresonable [*sic*] legislation."[60]

The actions of some Democrats made the charge of treason plausible. For example, Senator Pliny Hoagland sought to return Jesse D. Bright to the United States Senate in 1863 despite the fact that Bright had been expelled from that body. Hoagland was so discredited that he resigned from the legislature.[61] Democrats also received bad publicity during the Indianapolis treason trials in 1864. State Senator Martin M. Ray defended those accused of membership in the Sons of Liberty, a secret society that allegedly plotted to seize control of the state government. The defendants included Representative Horace Heffren.[62] The public did not forget for a long time that Democrats were tried and convicted even though the United States Supreme Court overturned the convictions in the ruling *Ex parte Milligan* (1866). Twenty years later the Republican press was still calling

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[57] *Ibid.*, 176.

[58] Historians have variously described Copperheads as the "fifth column" of the Civil War, a group that would have necessitated "a constant vigilance in any period," an organization whose story was "gaudy with secret symbols, passwords, and other conspiratorial paraphernalia," and "defenders of civil liberties." George F. Milton, *Abraham Lincoln and the Fifth Column* (New York, 1942), 117; Wood Gray, *The Hidden Civil War: The Story of the Copperheads* (New York, 1942), 224; James D. Horan, *Confederate Agent: A Discovery in History* (New York, 1954), 16; and Frank L. Klement, *The Copperheads in the Middle West* (Chicago, 1960), 20.

[59] Frederick W. Matthis to William H. English, March 6, 1863, English, IHSL.

[60] Richard M. Haworth and John L. Stone files, Legislator, *ibid.* See also Thomas M. Browne file, *ibid.*

[61] Isaac D. G. Nelson to William H. English, January 14, 1863, English, *ibid.*

[62] Martin M. Ray, Andrew Humphreys, and Horace Heffren files, Legislator, *ibid.* For the trials, see Stampp, *Indiana Politics During the Civil War*, 249-65, and Frank L. Klement, *Dark Lanterns: Secret Political Societies, Conspiracies, and Treason Trials in the Civil War* (Baton Rouge, La., 1984), 151-86.

Heffren "one of the most loudmouthed, rampant, bitter, boisterous, violent, venomous, poisonous copperheads that could be found on the face of the footstool."[63]

Members of both parties suffered in various ways because of the inflamed atmosphere. The wife of Republican Representative David C. Branham was terrified when her husband wrote during the 1863 session that Copperheads "would put me out of their way in a minute if they dared, but they have an inkling of the Terrable [*sic*] Retribution that would follow such an act."[64] The Reverend Oliver H. P. Abbett (House, 1863) started his own church when Methodists denounced Copperheads. Abbett's congregation was based upon one cardinal principle: "Political Preaching Discountenanced."[65] John W. Kemp, a one term representative from Vigo County in 1863, seemed to be the only member not bothered by it all:

> While in the House he dressed in a tight fitting suit of gray cloth buttoned up to his chin, single breasted, kept his mouth shut, always voted with the Democratic side, and when the House adjourned there were some people who thought him the most sensible man in the body.[66]

The postwar amendments to the United States Constitution dominated the sessions from 1865 to 1869. The General Assembly had never before ratified a proposed amendment. The nearest analogous action was selection of United States senators and the precedents here boded ill for a deliberative body composed of partisans holding diametrically opposite views. If the fiasco of 1863 marked the low point for representative government, the circumstances of 1865 only promised more of the same. Republicans controlled the House 57 to 42, but in the Senate the parties were tied. Democrats wanted revenge for 1863 and were out to stop ratification of the Thirteenth Amendment, which abolished slavery. The *Indiana Journal* viewed the prospect with trepidation, noting that legislative history under the second Constitution reflected little credit on the state. This Republican organ blamed both parties for the destruction of majority rule. Unless "statesmanship" restored "the honor and dignity of the law-making power" the *Journal* feared that representative government in Indiana might not survive.[67]

A Democrat who put principle above party provided the statesmanship that prevented a repeat of the 1863 donnybrook. Paris C. Dunning had served in both houses in the 1830s from Monroe County. He was elected lieutenant governor in 1845 and became governor in 1848 when James Whitcomb was elected to the United States Senate. Although Dunning did not hold elective office in the 1850s, he was active in party affairs. In 1860 he was a delegate to the Democratic national conventions; in 1861 he declared himself a War Democrat for the Union.

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[63] Warsaw *Times*, reprinted in Indianapolis *Journal*, January 17, 1883. Heffren served again at the 1883 session.

[64] Branham to Cynthia Branham, February 5, 1863, Branham Papers, Indiana Division, ISL.

[65] Abbett was joined in his new Christian Union church by Elijah Huffman (Senate, 1867-69). See Abbett and Huffman files, Legislator, IHSL.

[66] Kemp file, *ibid.*

[67] Indianapolis *Indiana Journal*, January 17, 1865.

Dunning returned to the Senate in the Democratic sweep of 1862 and was elected president *pro tempore* for the 1863 session. Dunning's election meant he would also be acting lieutenant governor. There had been no lieutenant governor since Oliver P. Morton vacated the office to become governor in January, 1861. From 1861 to 1863, Republican Senate President *pro tempore* John R. Cravens served as acting lieutenant governor. Then Dunning served as acting lieutenant governor from 1863 to 1865. In 1863 Dunning won plaudits from both parties for his fairness and leadership in presiding over the Senate. Before the 1865 session convened, Dunning endorsed the Thirteenth Amendment. He stood his ground after arriving in Indianapolis and, with the parties tied, caucused with the Republicans to organize the Senate. Despite some misgivings by Republican leaders, Dunning was reelected president *pro tempore* with twenty-five Republican votes plus that of Democrat Alexander C. Downey.[68] Dunning's leadership proved crucial in preventing Democratic bolts during the regular and special sessions.

On February 10 Dunning declared "of all the votes I have given, I say to-day, in the presence of Almighty God and this Senate, it is the proudest act of my life." After applause, Dunning reviewed his legislative career. "With my closing session," he concluded, "I . . . give a vote that strikes the shackles of slavery off the last Negro in the United States."[69] Although he exaggerated the importance of his vote it was nonetheless true that without Dunning the Indiana General Assembly would not have ratified the Thirteenth Amendment in 1865. Ratification passed the Senate 26 to 24, a bare constitutional majority, after sailing through the House. The announcement of the vote "was greeted with wild shouts, stamping, and other demonstrations of applause."[70]

In 1867 the General Assembly ratified the Fourteenth Amendment giving Negroes citizenship. Democrats opposed the amendment but did not bolt because Republicans enjoyed three to two majorities in both houses. Another factor that kept Democrats in line was passage of an act which imposed a fine of $1,000 on any legislator who absented himself to prevent a quorum. The Democratic state organ recommended a bolt to stop this anti-bolting bill on grounds it "would bind the Democratic party of Indiana hand and foot for years to come."[71] But Democrats stayed at their posts and the anti-bolting bill proved decisive in dictating

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[68] John R. Cravens to David C. Branham, January 8, 1865, in Branham Papers, Indiana Division, ISL; Downey file, Legislator, IHSL. Cravens warned Branham to "keep an eye on Paris C. Dunning." Downey, from Ohio County, also voted for the Thirteenth Amendment and "favored all proper war measures." At the opening of the 1865 special session Dunning was explicit in his conversion to Republicanism: "I shall support the nominees of the Republican party, and shall conform to the usages of the party with which I am co-operating . . . ." *Brevier*, 1865 (s.s.), 19.

[69] *Brevier*, 1865, p. 202.

[70] *Ibid.*, 201. For action on the amendment, see *ibid.*, 173-75, 179-84, 189-93, 195-204, 205-14, 220-24, 226-40, 277-81, and *House Journal*, 1865, pp. 322-24, 395-98.

[71] "An Act to prevent the breaking of a quorum" took effect immediately upon approval, February 7, 1867. It was applicable whenever there was no quorum because of willful or intentional absence by any member of the General Assembly. *Laws*, 1867, p. 131. See also Indianapolis *Herald*, February 7, 1867. For action on the Fourteenth Amendment, *House Journal*, 1867, pp. 101-5; *Brevier*, 1867, pp. 43-46, 79-81, 88-90.

their strategy when they faced the more bitter pill of enfranchising blacks.

Republicans retained control of both houses in 1869 and party differences were typified by Republican Representative Colbrath Hall and Democratic Representative Jonathan D. Cox. The former spoke of the "almost unspeakable pleasure . . . sitting in the . . . session that adopted the fifteenth amendment" while the latter noted his party's determination "to prevent the State being gagged . . ." by black suffrage.[72] Democrats, in the face of $1,000 fines per man for bolting, decided in caucus on a simpler expedient. The minority would prevent a quorum by resigning *en masse*. It did so on March 4, before final action on appropriations. The vacancies were filled at a special election on March 23 and all legislators who resigned (seventeen senators and thirty-seven representatives) were reelected. On April 8 Governor Conrad Baker convened a special session. The parties struck an informal agreement that the amendment would not be considered until after an appropriation bill was passed. But on May 13, when it appeared that Republicans would ratify the amendment anyway, Democrats resigned *en masse* a second time.[73]

The remaining Republicans then ratified the amendment and passed an appropriation bill while arguments raged on the legality of taking any action without a quorum present. United States Senator Oliver P. Morton provided a rationale for the legality of ratification. That action differed from acts of legislation, said Morton, because the duty to consider an amendment was imposed on the state by the nation and a state constitution could not be construed to prohibit such consideration. Morton also pointed to an act of Congress which specified that a majority of all members elected to both houses was sufficient to elect a United States senator, provided that such a majority was present and voting. If Congress had the right to regulate the election of United States senators, Morton concluded, by inference it also could say that amendments to the United States Constitution should be ratified in the same way.[74]

The question of legality became moot in 1870 when a Republican majority in Congress counted Indiana as one of the states that had ratified the Fifteenth Amendment. At the 1871 General Assembly session Democrats moved that "the so-called Fifteenth Amendment . . . and its pretended ratification . . . " were null and void. The resolution passed the Senate by three votes, but it did not clear the House before Republicans resigned *en masse* to end the session.[75]

The Parties in the 1870s and 1880s

Although state government could not formulate a national monetary policy because it could neither coin money nor issue notes, in the 1870s and 1880s

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[72] Hall and Cox files, Legislator, IHSL.

[73] For the views of several Democrats who resigned, were reelected, and then resigned again, see Leroy Calvert, Ochmig Bird, John S. Cotton, Wiley E. Dittemore, Robert Huey, Daniel McDonald, and Charles B. Lasselle files, *ibid.* For the resignations, *Brevier*, 1869, pp. 589-98; *ibid.*, 1869 (s.s.), 221-25, 233-45, 246-47. There is a detailed account of the 1869 sessions in William Christian Gerichs, "The Ratification of the Fifteenth Amendment in Indiana," *IMH*, 9 (1913), 131-66.

[74] Letter from Morton in Indianapolis *Indiana Journal*, May 25, 1869.

[75] *Brevier*, 1871, pp. 143-44; *Senate Journal*, 1871, pp. 328-32; *House Journal*, 1871, pp. 384, 509, 522-23.

money replaced race as the dominant issue in Indiana politics. As a wartime expedient between 1862 and 1864 the federal government had issued $450 million of legal tender notes (greenbacks) for the payment of all public and private debts. These greenbacks, supported by faith in and the credit of the United States government, but not by specie, fluctuated in value according to the fortunes of the Union army. At no time, however, were greenbacks redeemable at face value. The debtor farmers of the West came especially to rely on this federal paper (soft money) and found it a convenient means to pay off specie loans (hard money). When the United States Treasury began to withdraw greenbacks in 1866, reaction was inevitable. Soon, the complex question of government monetary policy was injected into the nation's mass electoral politics.

In 1868 the Democratic national platform called for continuing the inflated wartime money supply while the Republican platform endorsed contraction. In Indiana, however, the platforms of both parties sought a varying degree of inflation: Republicans demanded "restoration" of greenbacks while Democrats demanded "expansion" of the federal paper and abolition of the national bank system. In the ensuing election Republican Conrad Baker defeated Democrat Thomas A. Hendricks for governor by less than 1,000 votes. Two years later Democrats swept into control of both houses of the legislature on a wave of economic discontent. Democrats became respectable again and the two parties remained nearly equal through the 1880s. As a general rule, Democrats emerged as a radical, or inflationist party; Republicans became conservative, or hard money men; and Hoosiers dissatisfied with the major parties supported the Greenback party.[76] The question of hard or soft money arose at almost every session between 1871 and 1887, with neither Democrats nor Republicans long dominant and Greenbackers often holding the balance of power.[77]

In 1872 Republican inflationists in the state broke with the conservative monetary policies of the Grant administration. Along with so-called "Liberal Republicans" who broke with the administration because of its corruption, they allied with Democrats to support Horace Greeley for president and Thomas A. Hendricks for governor. Hendricks won the governorship for Democrats by about 1,100 votes but regular Republicans won a twelve vote majority on joint ballot in the 1873 General Assembly. The Panic of 1873 ensued, leading some Hoosiers to start an "Independent movement" on the sole issue of soft money. In 1874 Republicans in the state responded with an unequivocal endorsement of hard money. Democrats reendorsed unlimited paper along with their other issues. When seventy-eight Democrats and fourteen Independents (Greenbackers) were

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[76] For a comprehensive discussion of the money issue, see Emma Lou Thornbrough, *Indiana in the Civil War Era, 1850-1880* (Indianapolis, 1965), 252-58, 285-313 *passim*. See also Carleton, "Why Was the Democratic Party in Indiana a Radical Party?," *IMH*, 42:207-28. For the national movement, see Paul Kleppner, "The Greenback and Prohibition Parties," in Schlesinger (ed.), *History of U.S. Political Parties*, 2:1549-81.

[77] The varying fortunes of the parties are covered in William G. Carleton, "The Money Question in Indiana Politics, 1865-1900," *IMH*, 42 (1946), 107-50.

elected to the 1875 General Assembly "inflation won a great victory in Indiana . . . ."[78]

Democrats proceeded to lose some credibility with soft money advocates by selecting a fiscal conservative, Joseph McDonald, for United States senator over inflationist Daniel Voorhees. The party nonetheless elected Congressman James D. Williams governor in 1876 after Williams courted the soft money vote with claims that greenbacks were "for practical purposes . . . the best currency we can get."[79] But the new Greenback party, organized in Indiana by Ezra A. Olleman (House, 1865) siphoned enough votes in legislative races to give Republicans a majority on joint ballot at the 1877 session.[80] In 1878 Democrats and Greenbackers united to bury Republicans with 56.5 per cent of the vote and in 1879 this coalition elected Voorhees to a full term in the United States Senate.[81]

The 1879 session represented the high water mark of inflation sentiment in the Indiana House. A series of resolutions urging congressional action on money sailed through the House only to be tabled in the Senate. One, which passed by the astounding margin of 85 to 5, sought free and unlimited coinage of gold and silver. Another asked for the issuance of paper money in an amount equal to $30 "*per capita*."[82]

Lawmakers also devoted considerable attention in 1879 to railway regulation, an issue as dear to Greenbackers as soft money. Railroads were a principal cause of discontent among farmers and a special target of their organization, the Grange. Begun as the National Patrons of Husbandry in 1868 and intended for social purposes, the Grange became a major force in midwestern politics. By 1875, the Indiana State Grange numbered nearly 60,000 members and formed the backbone of the Independent/Greenback movement. Measures to regulate railroads were considered at every session as a result of Grange pressure, but almost none became law.[83] Indiana farmers despaired of effective state action by the late 1870s and looked to the federal government for relief.

A resolution urging Congress to regulate railroads through an interstate commerce commission passed the House in 1879 but encountered resistance in the Senate. One senator insisted on state action, saying the legislature made the railroads and it could likewise unmake or regulate them. Another demanded national action for "the people" oppressed by a "powerful lobby" of organized capital. A defender of railroads said no action was necessary against a business that "conferred . . . inestimable blessings." After Charles H. Reeve of Marshall County likened the debate "to a dispute between two Irishmen as to whether

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[78] *Ibid.*, 122.

[79] Quotation in Thornbrough, *Indiana in the Civil War Era*, 300.

[80] John D. Macoll, "Ezra A. Olleman: The Forgotten Man of Greenbackism, 1873-1876," *IMH*, 65 (1969), 173-96.

[81] Carleton, "Money Question in Indiana Politics," *IMH*, 42:138-41.

[82] *Brevier*, 1879, pp. 37-38; *Senate Journal*, 1879, pp. 332-33.

[83] For a summary of action regarding railroads, with citations to the legislative journals, see Thornbrough, *Indiana in the Civil War Era*, 356-61.

one was digging a hole or only pulling out the dirt while the hole dug itself," the Senate concurred with the House by a 34 to 13 vote.[84]

The money question became less important in the 1880s. Greenbackers were present at every session, however, and on one occasion cast the decisive vote for United States senator. In 1887 the General Assembly contained seventy-five Democrats, seventy-one Republicans, and four Greenbackers. Democrat David Turpie was elected on the sixteenth ballot when Representative Frederick J. S. Robinson of Clay County voted with the Democrats. Robinson had quit the Republican party in 1874 to help organize the Independent movement. In 1880 he lost for presidential elector on the Greenback ticket. He served three terms in the House in the mid-1880s and ended his political career in 1908 when he ran for governor as a Populist and lost.[85]

The Greenback movement was the most significant third party effort in Indiana during the nineteenth century. What began in 1874 as a Hoosier protest became a national party by 1876 and remained a factor in state politics until the late 1880s. Although the life of Greenbackism spanned seven sessions of the General Assembly, the exact number of Greenbackers who served cannot be determined. Party lines were too blurred by soft money Republicans and inflationist Democrats who received Greenback endorsement. Accurate identification was complicated further because the soft money party kept changing its name: the Independent movement of 1874 became the Greenback party of 1876; this in turn became the National party in 1880 and 1884; the remnant in the late 1880s was variously designated as National Greenback, Labor, or Union Labor party. The movement's state organ claimed that forty-seven members were elected to the legislature between 1874 and 1882 after they were either nominated by a Greenback/Independent convention or endorsed and elected as Greenback candidates.[86] Most of these had no other experience in public life. A few, however, were well-known as Democrats or Republicans before switching.

Civil War era lawmakers who became Greenbackers included Democrats Achilles V. Pendleton (House, 1863), Richard Gregg, and Thomas Hunt (both House, 1865). Pendleton was converted through the Grange and ran twice for Congress as a Greenback candidate in the 1870s; Gregg, asserting "that the Democracy followed too near in [Republican] footsteps" as "a mere puppet in the hands of the millionaires," ran for governor as a Greenbacker in 1880.[87] Those who had served as Republicans included Noah J. Major (House, 1865) and Leander M. Campbell (House, 1867). Major and Campbell both returned to the General Assembly as Greenbackers (the former to the House in 1879 and

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[84] *Brevier*, 1879, pp. 26, 35-36, 109-11; *House Journal*, 1879, pp. 373, 383; *Senate Journal*, 1879, pp. 59, 76, 225, 235.

[85] Carleton, "Money Question in Indiana Politics," *IMH*, 42:148; Robinson file, Legislator, IHSL.

[86] Indianapolis *Sun*, October 24, 1874, October 21, 1876, October 12, 1878, November 3, 1880, November 8, 1882. This newspaper began publication in 1873 and served as the Greenback-Independent organ until 1884.

[87] Pendleton, Gregg, and Hunt files, Legislator, IHSL.

the latter to the Senate in 1885).[88] Others who left the established parties included three members of the House in 1875: James M. Emerson, "a Democrat until . . . he became liberalized and drifted into independence . . . "; Mortimer L. Henderson, who went from Democrat to Republican in 1861 to help save the Union and then became an Independent; and John C. Lincoln, who bolted his party "though later he returned to his first love, and died a Republican."[89]

The Election of United States Senators, 1851 to 1867

The United States Constitution provided that state legislatures would individually choose two United States senators for terms of six years each. Each legislature prescribed its own time and manner of election unless Congress mandated the time and/or manner by law. Congress, however, could not change the place of election short of amending the Constitution. Senators must be chosen by the legislature. This process, intended to be relatively simple, became so complex and controversial in Indiana during the 1850s that lawmaking came to a standstill. The General Assembly refused to elect a senator in 1855, leaving the state with only one. In 1858 there were four men who had been elected to fill two vacancies and the United States Senate itself resolved the matter of who represented Indiana. By 1860 legislative paralysis seemed probable every time Indiana chose a senator. Since Indiana's difficulties threatened to spread to other states, Congress passed "An Act to regulate the Times and Manner of holding Elections for Senators" in 1866.[90]

The reelection of Jesse D. Bright in 1851 proved the least troublesome contest of the 1850s. Democrats outnumbered Whigs 95 to 55 and Bright politicked to become the first Indiana senator since William Hendricks (1825-1837) to serve full consecutive terms. The incumbent's major challenge came from Robert Dale Owen, whose campaign failed on January 10 when Bright carried the Democratic caucus by better than two to one. The next day Bright picked up four Whig votes and was reelected 99 to 46 over Charles Dewey.[91]

The death of Senator James Whitcomb in 1852 led to a second contest with Democrats as the main contenders. Governor Joseph A. Wright appointed Charles W. Cathcart to the seat until the General Assembly met. After Democrats buried the Whigs in the 1852 landslide, the governor announced his support for John Pettit of Lafayette to complete Whitcomb's term. Bright proclaimed he would not sit in the same chamber with any man supported by Wright. "The Lord deliver me from the painful operation . . . " Bright wrote as he went all out for Dr. Graham N. Fitch of Logansport. But the effort for Fitch failed

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[88] Major and Campbell files, *ibid.*

[89] Emerson, Henderson, and Lincoln files, *ibid.*

[90] For the influence of Indiana Senate elections on passage of the federal law, David Turpie, *Sketches of My Own Times* (Indianapolis, 1903), 176-78; for the act, *U.S. Statutes at Large*, 14:243-44.

[91] Richard W. Leopold, *Robert Dale Owen: A Biography* (Cambridge, Mass., 1940), 278-79; Bright file, Legislator, IHSL. See also *House Journal*, 1850-51, p. 163.

when the caucus gave Pettit the nod. On January 11, 1853, Pettit defeated Whig Samuel W. Parker 101 to 47 as Democrats without exception supported the caucus choice. Bright was disappointed: "With Pettit I shall have little or nothing to do. I do not recognize him as a gentleman, or my friend, and this . . . is enough to determine my rule of action."[92]

Pettit's term expired in 1855, the year that Fusionists had an 84 to 66 advantage on joint ballot. This made Godlove S. Orth the front runner to succeed Pettit. Orth's major competitors were Representative Solomon Meredith and Judge Joseph G. Marshall. Of the three, Orth, with the advantage of a statewide network of Know Nothing lodges, mounted the most effective campaign. The Know Nothing propensity for mystery was shown when Orth devised a secret code to communicate with supporters. Thus, although "10-1-20-13-21" would not support Samuel W. Parker because "8-21-9-21-16-12-19-7" was in the field, Orth was confident of victory unless Democrats postponed the election.[93] "Of one thing I am most thoroughly convinced," Orth wrote to Schuyler Colfax, "if the election is not brought on within the first ten days of the Session, we shall have inextricable confusion and trouble . . . ."[94]

Orth's prediction came true. Democrats intended to stave off election of an abolitionist by any means. With the parties tied in the Senate, Lieutenant Governor Ashbel P. Willard held the key. Willard gave Democrats a majority with a ruling on a contested election from Harrison County. "Every thing was arranged before the Senate met" and Willard's casting vote gave Democrats a 26 to 24 margin as John Mathes was seated instead of Fusionist Peter Glenn.[95]

Jesse D. Bright then directed the Senate majority not to meet with the House. Instead, the Senate passed a resolution (26 to 24) naming the aged Isaac Blackford as its choice to succeed Pettit.[96] Bright hoped the former Supreme Court judge would attract enough votes in the House for that body to pass a similar resolution. This strategy failed when the House persisted in demanding a joint session and a *viva voce* vote.[97] The impasse could not be broken and the session ended without the election of a junior senator from Indiana. Bright rewarded Blackford for his cooperation by arranging his appointment to a federal judgeship.

Bright prevented a Senate election in 1855. Two years later, with the positions of the parties almost exactly reversed, Republicans used the same strategy against Bright. Democrats held sixty-one seats in the House; Republicans controlled the

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[92] Bright to William H. English, November 21, 1852, January 25, 1853, English, IHSL. See also *House Journal*, 1853, p. 82.

[93] Orth to Schuyler Colfax, November 10, 1854, in Schauinger (ed.), "Letters of Godlove S. Orth, Hoosier American," *IMH*, 40:58-60. Decoded the passage reads: "[Wayne] County is not for [him] because [Solomon Meredith] is in the field . . . ." Orth closed with a P.S.: "If you have not received my key this letter will be rather hard to manage."

[94] Orth to Colfax, December 1, 1854, *ibid.*, 61.

[95] Fred[erick] W. Matthis to William H. English, January 5, 1855, English, IHSL; *Senate Journal*, 1855, pp. 14-16.

[96] *Senate Journal*, 1855, pp. 520-23.

[97] Van Der Weele, "Jesse D. Bright," 149-50; *House Journal*, 1855, pp. 843-44.

Senate 27 to 23. Thus, Bright's party enjoyed an 84 to 65 advantage on joint ballot.[98] But Senate Republicans, citing 1855 as a precedent, thwarted Bright by refusing to meet in joint session. After weeks of bickering the Senate minority acted on its own. On February 4, Senate Democrats went to the House, House Republicans walked out, and Democratic Speaker Ballard Smith declared the convening of a joint session to elect United States senators. Bright was reelected 83 to 2 with one abstention; Graham N. Fitch was elected to the four year term by the same margin.[99] The abstainer was Republican Senator Morgan H. Weir who "grew curious to see what the House was doing . . . on going there, he went no further than the lobby, the Democratic Speaker . . . detected his presence, and counted him as present and not voting." Speaker Smith ordered the door locked so Weir could not leave, and proceeded with the vote. Senator John Yaryan, who represented Union County at the session, recalled later that the United States Senate declared Weir's presence at a joint session could be counted.[100]

Democrats justified their action on grounds that no time, form, or place for the election of senators had been prescribed by either the federal or state governments. "All that seems to be necessary," said the *State Sentinel*, "is, that there shall be some mode that will show the assent of a majority . . . ."[101] Republicans, of course, found the mode unacceptable. They said no quorum of either house was present. Such an election, if allowed, would destroy the General Assembly and "install in its place any mob which may . . . take forcible possession of the House . . . ."[102] The Senate voted 27 to 20 that it had not participated in a joint convention, but Lieutenant Governor Abram A. Hammond, acting as president of the Senate, signed certificates of election for Bright and Fitch.[103] Republicans refused to return to the House and the session ended with no appropriation for the next biennium. The fiscal crisis forced Governor Ashbel P. Willard to call the first special session in the state's history after the elections of 1858 gave Republicans solid majorities in both houses.

Bright and Fitch were seated by the United States Senate on June 12, 1858, over Republican protests.[104] The following November the special session of the General Assembly declared that the seats from Indiana were vacant.[105] The special session also passed an act prescribing the method of electing United States senators, an act that Governor Willard vetoed because "history . . . shows that in times past, on several occasions, no . . . concurrent majority could be procured . . . ."[106]

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[98] Rush County was not represented in 1857 because the House refused to act in a contested election between Leonidas Sexton and Samuel McBride. Both men were given the pay and mileage allowed to members. *House Journal*, 1857, pp. 5, 45, 77, 1093, 1145-54, 1200-1, 1202-6.

[99] *House Journal*, 1857, pp. 395-97.

[100] "Senator Yaryan of Wayne," Indianapolis *Journal*, December 4, 1890.

[101] Indianapolis *Indiana State Sentinel*, February 3, 1857.

[102] *House Journal*, 1857, p. 399.

[103] *Senate Journal*, 1857, pp. 198-201, 274-76.

[104] *Proceedings as to Bright and Fitch Taking Seats in U. S. Senate* . . . (Washington, D.C., 1858), 132.

[105] *House Journal*, 1858 (s.s.), 319-20.

[106] *Brevier*, 1858 (s.s.), 169-70; *Senate Journal*, 1858 (s.s.), 274-77, quotation, 275.

Republicans could not override the veto and on December 22, Henry S. Lane and William M. McCarty were elected to fill the vacancies by joint resolution. The session ended with Lane and McCarty certified by the House clerk and Senate secretary as having been duly elected.[107] Since Democrats still controlled the United States Senate, the *State Sentinel* predicted that the "pilgrimage of Messrs. Lane and McCarty [to Washington], will result in a wild goose chase."[108] Lane explained what happened next: "I presented my credentials to the Senate but that body actuated by partizan feelings refused to recognize my election . . . ."[109]

In response to the fate of McCarty and Lane, the 1859 session sent a memorial to the United States Senate that reviewed the history of Indiana Senate elections since 1855. The memorial stressed that no joint session had been held in either 1855 or 1857, and to emphasize the point Republicans suggested that a federal law compelling attendance at such elections was in order.[110] The election results in 1860 ensured that a Republican would be chosen in 1861 to succeed Graham N. Fitch. Henry S. Lane was promised the seat if he would head the Republican state ticket. Lane agreed and began his Senate campaign immediately after he was elected governor in October.[111] The only challenge to Lane came from a faction that preferred Caleb B. Smith for senator in order to smooth the way of Schuyler Colfax for a cabinet appointment.[112] Yet Lane's appeal as the one man who could avenge the "fraudulent" election of 1857 proved insurmountable. He carried the Republican caucus handily and was elected on January 16, 1861, by a vote of 88 to 58 over former Governor Joseph A. Wright.[113] For the first time in eight years the General Assembly had elected a senator with relative ease.

While Republicans took satisfaction when Lane replaced Fitch, they would not feel totally vindicated until Bright was also gone. And that would not be until 1862. After the outbreak of the Civil War, Republicans grew impatient and directed the state Senate committee on federal relations to investigate Bright. On May 31, 1861, the committee reported that Bright had forfeited all right to represent Indiana because he lived in Kentucky. A resolution seeking Bright's expulsion passed the Senate but the House failed to concur.[114] Bright's fate was soon sealed, however, by publication of a letter he wrote on behalf of an arms

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[107] See certificates of election for Henry S. Lane, December 22, 24, 1858, Lane Papers, IHSL.

[108] Indianapolis *Indiana State Sentinel*, December 23, 1858.

[109] "H. S. Lane, Crawfordsville, Nov 27, 1860, to ____," in Lane Papers, IHSL. Lane prepared this form letter reviewing his claim to a seat for Republicans serving at the 1861 session.

[110] *Senate Journal*, 1859, pp. 62-70.

[111] For details of the bargain, see George Nebeker to Lane, December 20, 1860, Lane Papers, IHSL. According to Nebeker the legislators from Fountain County opposed the deal as "wrong, bad precedent, impolitic." Both Henry Campbell and James F. Fraley, however, voted for Lane on the first ballot.

[112] For the effort against Lane, see C. B. Wagner to Lane, November 2, 1860; C. L. Murray to same, December 3, 1860; Thomas Underwood to same, December 10, 1860, all *ibid.*

[113] *House Journal*, 1861, pp. 92-93; *Senate Journal*, 1861, pp. 84-85.

[114] *House Journal*, 1861 (s.s.), 392-93; *Brevier*, 1861 (s.s.), 253, 256.

merchant. It was addressed "*To His Excellency, Jefferson Davis, President of the Confederation of States.*" The letter had been written March 1, 1861, before the war started, and Bright claimed he intended no harm. The United States Senate saw it otherwise and expelled Bright on February 5, 1862.[115]

Governor Oliver P. Morton appointed former Governor Joseph A. Wright, Bright's long-time foe in the Democratic party, to fill the vacancy until the next General Assembly convened. In 1863, during the most disruptive legislative session yet, the election of a full term replacement proved perfunctory. Democrats decided in caucus to support David Turpie for what was left of Bright's term (until March 4) and Thomas A. Hendricks for the full term (1863 to 1869). On January 14, without debate or delay, Turpie and Hendricks defeated Daniel D. Pratt and Joseph A. Wright by more than twenty votes.[116]

The subsequent disintegration of representative government at the session, however, helped convince Congress that it must standardize Senate elections before the Indiana General Assembly had to choose again. The federal law of 1866 specified that a simple majority of lawmakers constituted a quorum for the election of senators in joint convention; that the election must take place within a specified time period; that a simple majority of those present and voting sufficed for election; and that at least one vote must be taken daily until a candidate was elected.[117] The act was popularly known as the "Indiana law" and it worked well when Lane decided not to seek reelection. In fact, the only excitement in 1867 came when Speaker David C. Branham refused to recognize James B. Belford (La Porte County) for the purpose of nominating Oliver P. Morton. Belford became so irritated "that he hurled an inkwell at the head of Branham, when he was at once recognized."[118] Morton then defeated Daniel W. Voorhees of Terre Haute by a count of 88 to 52.[119]

Through 1867 the Indiana General Assembly elected fifteen men to the United States Senate.[120] Only four, however, were elected for two or more six-year terms. Three of these, James Noble, Waller Taylor, and William Hendricks, served before the legislature divided into political parties. The fourth, Jesse D. Bright, won by such unorthodox methods that Congress passed a special law to standardize the election of senators. The fluctuations of party strength determined the fates of the other eleven and the norm for senators from Indiana became one term or less.

The Election of United States Senators, 1869 to 1887

The tradition of one term or less continued in 1869 when Thomas A. Hendricks' seat was up and Republicans controlled both houses. Potential Re-

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[115] Indianapolis *Journal*, August 20, 1861; Wayne J. Van Der Weele, "'With My Face Toward My Accusers': The Expulsion of Jesse David Bright From the United States Senate," in *Their Infinite Variety*, 77-119.

[116] *Senate Journal*, 1863, pp. 71-75.

[117] For an analysis of the law, see Indianapolis *Journal*, January 16, 1867.

[118] Belford file, Legislator, IHSL.

[119] *House Journal*, 1867, pp. 181-82.

[120] Eighteen men had served but three of them (Robert Hanna, Jr., Charles W. Cathcart, and Joseph A. Wright) were appointed to vacancies and never elected.

publican senators abounded. The early front runner, Walter Q. Gresham, opposed the enfranchisement of blacks. Gresham eliminated himself from the Senate contest, according to his wife, because his party pressed for Negro suffrage.[121] The perennial candidate, Godlove S. Orth, sought the post eagerly but he had little support.[122] Lieutenant Governor Will E. Cumback was the clear favorite by session time. At the Republican state convention Cumback connived to get party endorsement. He then boasted to lawmakers about the "bargain" he struck to run for lieutenant governor in return for the Senate nod. "Should I succeed," Cumback wrote to one representative, "I will be [in] a position where I can help you or any of your friends."[123] The implied bribery and loose talk about bargains alienated several legislators. State Senator James Hughes, a former Democrat with ambitions of his own, decided he could go to Washington himself through an alliance of minority Democrats and disaffected, anti-Cumback Republicans.[124] But first the world must know more about the "convention bargain."

Hughes authored a resolution asking that correspondence between Cumback and Governor Conrad Baker concerning Hendricks' seat be furnished to the Senate for use and information. According to one source, Baker replied that there were some letters but he considered them private and of no interest to the public. A relieved Cumback swore "I never will break the seal of privacy of letters directed to me, so help me God." But Hughes persisted and Governor Baker released four letters. In the first, dated January 6, 1868, Cumback promised Baker an uncontested nomination if Baker would support Cumback for Hendricks' seat. Cumback also sought the advantage of incumbency through appointment if Hendricks resigned as expected to run for governor on the Democratic ticket. Baker refused what he termed a "corrupt and indecent" request and Cumback asked that the letters be returned. Baker obviously refused this request.[125]

The letters split assembly Republicans as the presiding officer of the Indiana Senate was censured for "an improper attempt to tamper with the integrity and destroy the independence of the appointing power vested in the Governor." With his party deadlocked, Cumback withdrew his name after the seventh ballot. On January 22 the Republican caucus endorsed Daniel D. Pratt of Logansport who defeated Thomas A. Hendricks 83 to 60.[126] Within a year the seat almost became vacant again because a disillusioned Pratt wanted to resign. "Whatever capabilities I possessed as a mere lawyer, I have none as a statesman . . . ," Pratt wrote

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[121] Matilda Gresham, *Life of Walter Quintin Gresham, 1832-1895* (2 vols., Chicago, 1919), 1:345-46.

[122] Orth to Daniel D. Pratt, October 22, 1868, Pratt Papers, Indiana Division, ISL.

[123] Cumback to George F. Chittenden, October 19, 1868, Chittenden Papers, *ibid.*

[124] Henry Clay Duncan, "James Hughes," *IMH*, 5 (1909), 92-94.

[125] *Brevier*, 1869, request for information and Baker's response, 35-39, 45-55, 67, letters, 78, 92-93, Cumback's response, 90-91.

[126] *Ibid.*, censure resolution, 95-99, 115, 125, election of Pratt, 169. Several lawmakers claimed credit for springing Pratt as a "dark horse" and securing his election. See Milton S. Robinson, John Green, and Elisha C. Field files, Legislator, IHSL.

to Governor Baker. The party convinced Pratt to stay on out of fear that the next General Assembly might fill the seat with a Democrat.[127]

During the years following the Cumback fiasco most Senate elections were orderly and sedate. In fact, the biggest excitement through 1885 occurred at the pre-election party caucuses. Once the caucus spoke, the choice of the majority party was assured as party discipline remained ironclad. Oliver P. Morton, the man who "has made himself the Republican Party of Indiana," won his second term in 1872 by defeating James D. Williams 81 to 62.[128] A fight between hard and soft money Democrats was averted in 1875 when Daniel Voorhees withdrew from the race. Joseph McDonald, "a hard man standing in a soft place, a specie man clothed in paper," defeated Pratt 78 to 44 with 24 soft money votes scattered.[129] Governor James D. Williams appointed Voorhees to Morton's seat when Morton died in 1877. Voorhees was then elected twice in 1879; he defeated Godlove S. Orth for the unexpired term until March 3, and Benjamin Harrison for the full term beginning March 4.[130]

In 1881 outgoing Governor Isaac P. Gray called in his valedictory address for direct election of United States senators by the people on grounds that the nomination and election process took up too much time.[131] By contrast, Benjamin Harrison was quite satisfied with the way he defeated Gray by a vote of 81 to 62. In the first acceptance speech ever by a senator-elect before the General Assembly, Harrison admitted that he "had no experience in any legislative body, and almost none of public life . . . ." He nonetheless accepted election with "a deep sense of responsibility . . . and a very grateful sense of kindness received . . . ."[132] In 1885 Voorhees won a third term by defeating Governor Albert G. Porter 94 to 51. Voorhees was nominated by a fellow townsman, Representative Eugene V. Debs of Terre Haute, who was serving as a Democrat in his only term in the General Assembly.[133]

The public was beginning to perceive the General Assembly as an efficient, businesslike body by 1887 when lawmakers assembled for the first time in the new State House. Neither war hysteria nor passionate differences over great issues divided the lawmakers. The calm on the surface proved deceptive as the struggle over Benjamin Harrison's Senate seat made the earlier machinations of Jesse D. Bright seem tame. As a result the state Senate denied office to a lieutenant governor elected by the people and the session ended with the two houses maintaining absolute non-intercourse as lawmaking came to a standstill.[134] William

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[127] Pratt to Baker, December 22, 1869, cited in Joseph E. Holliday, "Daniel D. Pratt: Lawyer and Legislator," *IMH*, 57 (1961), 125.

[128] Indianapolis *News*, November 14, 1872; *Senate Journal*, 1872 (s.s.), 161-62.

[129] Indianapolis *News*, January 15, 1875; *House Journal*, 1875, pp. 223-26.

[130] Voorhees won both elections by a vote of 83 to 59. *Senate Journal*, 1879, pp. 113-14.

[131] *House Journal*, 1881, pp. 70-71.

[132] *Ibid.*, 210-11, 213.

[133] *Ibid.*, 1885, p. 206.

[134] For a recap of the session, see concluding remarks of Speaker Warren G. Sayre, *House Journal*, 1887, pp. 943-44.

S. Garber, who covered the session for the Indianapolis *Journal*, concluded that it "exceeded in violence and disorder and nearness to bloodshed and tragedy any that ever before or since disgraced either branch of the legislature."[135]

It began innocently enough when Lieutenant Governor Mahlon D. Manson resigned in the summer of 1886 to accept a federal appointment in the Grover Cleveland administration. Governor Isaac P. Gray wanted the vacancy filled so he would be free to succeed Harrison as United States senator in 1887. Thus, Gray was pleased when Democratic Attorney General Francis T. Hord, Jr., said a new lieutenant governor could be elected at the state elections. The Democrats chose John C. Nelson for the post while Republicans nominated Robert S. Robertson of Allen County. In November, Robertson won by 3,000 votes, "a result few Republicans had expected, and no Democrat in the State believed possible . . . ."[136] The results of legislative races also boded ill for Democrats. They would have seventy-five votes on joint ballot to seventy-one for Republicans and four for Greenbackers/Independents. If Harrison won all of the latter, he could be reelected with the tie-breaking vote of the lieutenant governor. Democrats retained the Senate, however, with a 31 to 19 margin.

Thus, organization of the Senate was crucial. Since the office of lieutenant governor had been vacated, the president *pro tempore* of the Senate became acting lieutenant governor until the next gubernatorial election. Democrats therefore declared Robertson's midterm election unconstitutional. Senator Alonzo Green Smith of Jennings County, president *pro tempore* in 1885, claimed to be acting lieutenant governor. When Green Smith sought a judical verdict on the question, the state Supreme Court held that courts had no jurisdiction in a legislative dispute. The Democratic *Sentinel* set the tone for what followed when it said of the judges: "Damn their cowardly souls."[137]

There was no lieutenant governor when the General Assembly met on January 6, and could be none until the speaker counted the votes and Robertson was sworn. An act of 1872 specified that in the absence of a lieutenant governor it was the duty of the auditor of state to organize the Senate. Under authority of this statute in 1881 the auditor called the roll, announced a quorum, and the Senate then elected a president *pro tempore.*[138] Despite law and precedent Green Smith organized the Senate in 1887. When Republicans objected Smith ruled them out of order. In an incident symptomatic of the entire session, even the opening prayer was interrupted by an objection to Smith's actions.[139]

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[135] Garber, "In the General Assembly of the State of Indiana, The Smith-Robertson Contest for the Lieutenant-Governorship, 1887," 40, bound typescript in Indiana Division, ISL. The account which follows is drawn from Garber's reminiscence, from a pamphlet by Republican Robert S. Robertson, the would-be lieutenant governor, and from a reminiscence by Senator Timothy E. Howard, a Democrat who represented St. Joseph County at the session. See Robert S. Robertson, *The Indiana Rebellion of 1887. The Case of the Lieutenant-Governor* (n.p., [1887]), in Indiana Division, ISL; and "The Legislature of 1887," in Stoll, *History of the Indiana Democracy*, 316-20.

[136] Robertson, *Indiana Rebellion of 1887*, p. 5.

[137] Indianapolis *Sentinel*, January 5, 1887.

[138] *Laws*, 1872 (s.s.), 32-33; *Senate Journal*, 1881, pp. 3-5.

[139] Garber, "The Smith-Robertson Contest," 47-48.

The early maneuvering for a majority on joint ballot was fierce. House Republicans unseated a Democrat; Senate Democrats unseated a Republican.[140] Rumors were rampant: Democrats would recognize Robertson if Republicans stopped unseating Democrats "until a U.S. Senator had been elected"; Green Smith would not sign Republican pay vouchers until all senators recognized him as lieutenant governor. On January 10, Robertson was sworn amidst insults shouted in "language unfit to repeat." The would-be lieutenant governor noted that the legislature "organized unlawfully and selected an unusual number of doorkeepers . . . apparently chosen for development of muscle rather than brains . . . ." On January 13, the Marion County Circuit Court restrained Robertson from acting as lieutenant governor, an order he obeyed until it was lifted by the state Supreme Court on February 23.[141]

In the meantime, on January 19, balloting began for United States senator. David Turpie, chosen in caucus as the Democrat most likely to get at least one Independent vote, was nominated to contest Benjamin Harrison.[142] The parties had agreed that the president of the Senate (Green Smith) would call sessions to order and the speaker of the House (Warren G. Sayre) would preside. For fifteen ballots the count stood 75 to 71 to 4 with Turpie ahead. On February 2, one Independent voted for Turpie, three Independents voted for Harrison, and Green Smith declared Turpie the winner, 76 to 74. Almost simultaneously Speaker Sayre shouted that the vote was illegal because Green Smith could not vote unless there was a tie. The House descended into chaos; as senators returned to their chamber Republican Ferdinand Winter of Marion County was heard to say "We have met the enemy and we are theirs."[143]

A calm of sorts prevailed from February 3 to February 23. The thin volume of session laws (derisively known as "Green Smith's primer") filled up with non-partisan and non-controversial acts to build monuments in the State House for Thomas A. Hendricks and Schuyler Colfax; to regulate dentistry; to build a school for the feeble-minded; and to erect a soldiers' and sailors' monument on the Circle in Indianapolis. When the injunction against Robertson was lifted, even lawmaking such as this ceased.[144]

Democrats expected Republicans to contest Turpie's election in the United States Senate. They were determined not to strengthen the Republican case by seating Robertson. As a result, February 24, 1887, the day that Robertson mounted the steps to preside over the Senate as lieutenant governor, was a black day in

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[140] The unseating stopped when Republicans concluded there was no gain in trading two-year seats for four-year seats. In the House, Republican Henry C. Dickerson replaced Cornelius Meagher; in the Senate, Democrat L. Frank Brannaman replaced William N. McDonald. *House Journal*, 1887, pp. 93-94, 99-111; *Senate Journal*, 1887, pp. 151-80. See also Dickerson file, Legislator, IHSL.

[141] Robertson, *Indiana Rebellion of 1887*, pp. 8-16, quotations, 8.

[142] Turpie had served three terms in the Indiana House, including one as speaker at the 1875 session.

[143] *Brevier*, 1887, p. 131; *Senate Journal*, 1887, pp. 202-10, 219-20, 232-35, 257-59, 263-64, 306-7, 308-9, 337-38, 350-51, 356-64, 375-77, 396-98, 410-11, 418-24; quotation, Garber, "The Smith-Robertson Contest," 63.

[144] Stoll, *History of the Indiana Democracy*, 319; *Laws*, 1887, *passim*.

the history of the General Assembly. Two Republican senators received "a black eye, a cut cheek and disarranged clothing" while jostling with Democratic "doorkeepers" as Robertson entered the room. When he approached the Chair, another doorkeeper seized Robertson by the throat and hurled him several feet into the front row seats. Republicans rushed to assist the lieutenant governor. The chamber erupted with shouts:

"Order! We must have order!"

"Put Senator [Mark L.] DeMotte in his seat, and if he leaves it . . . remove him from the floor," said Green Smith to a doorkeeper.

"The Chair has no right to expel a senator!"

"Only the Senate can do that by a two-thirds vote!"

"Stop! I'm armed. I'll kill the man that touches me."

There was a fistfight between Senators Isaiah B. McDonald (Whitley County Democrat) and Henry U. Johnson (Wayne County Republican). A desk toppled upon Senator De Motte (Porter County Republican) as a doorkeeper wrestled him to his seat. The would-be lieutenant governor, meantime, was hustled unceremoniously to the door and thrown out, into the arms of 600 waiting partisans.[145]

Worse violence threatened. Inside the Senate stood almost fifty armed Democratic doorkeepers; outside surged 600 Republicans intent on storming the door and taking Green Smith prisoner. Only the statesmanlike actions of Robertson avoided the spilling of blood. Once outside, Robertson proceeded to the south stairway, climbed three or four steps, and addressed the crowd. It was not the duty of elected officials to seize office by force, he said. "Do nothing in the heat of passion which you would regret in the future." As the crowd became calm Robertson concluded with a partisan reassurance: "[Today's events] will hurl this infamous Democratic party from power in the State for the next quarter century."[146] Robertson proved a poor prophet, however; in 1889 Democrats held their majority in the Senate and gained control of the House. In 1890 Green Smith was elected state attorney general.

After the expulsion of Robertson, lawmakers abandoned all idea of legislating; the houses even refused to accept messages from one another. A Republican newspaperman later said of the Democrat most responsible for the deadlock:

> When he wasn't engaged in keeping republicans out of office—in all the other relations of life—he [Alonzo Green Smith] was a fair man, a good natured and agreeable gentleman.[147]

Green Smith admitted some culpability in 1893 when he paid $500 and costs to Robertson rather than face trial in a civil suit wherein Robertson charged Green Smith with acting unconstitutionally.[148] The Democratic view of the session was

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[145] *Brevier*, 1887, pp. 510-15; Robertson, *Indiana Rebellion of 1887*, pp. 17-21; Garber, "The Smith-Robertson Contest," 67-73.

[146] Garber, "The Smith-Robertson Contest," 73-74; Robertson, *Indiana Rebellion of 1887*, p. 22.

[147] Garber, "The Smith-Robertson Contest," 77.

[148] "Green Smith Quits," Indianapolis *Journal*, October 8, 1893.

voiced by Green Smith when, in his valedictory as president *pro tempore*, he called it "the most memorial [*sic*] Senate that has ever met on American soil." Democrats had defeated Republicans on every issue, Smith said, and "I am satisfied with every act I have performed."[149] The historian viewing the session a century after the fact is forced, however, to agree with the view of Robertson: "history will probably record the proceedings as unparalleled in stupidity . . . ."[150] Indiana's crisis in 1887 over a Senate seat did encourage the national movement for direct election of United States senators. The bitter experiences of the state legislature with Senate elections from 1851 to 1887 suggested that such reform was sorely needed.[151]

The General Assembly and the Governors

The Constitution of 1851 reduced legislative dominance without really strengthening the office of governor. For example, unlike the first Constitution, the second provided that no governor could hold office more than four years in any period of eight years. (See Appendix A, Table 3.) Nonetheless, three governors served more than four consecutive years during the era. Joseph A. Wright served eight years (1849 to 1857) because he was the last governor elected under the first Constitution and the first governor elected under the second. In addition, Oliver P. Morton and Conrad Baker served six years each as governor, although each was elected to the office only once. Morton advanced from lieutenant governor to governor when Henry S. Lane was elected to the United States Senate in 1861 and won the office in his own right in 1864. Baker was elected lieutenant governor in 1864 and became governor when Morton went to the United States Senate in 1867. Baker then won the office in his own right in 1868. The constitutional limitation of no more than four years in any period of eight years was intended to prevent governors from succeeding themselves; it ensured lame duck administrations. Since the governor was financially dependent upon the legislature for the funds needed to run state government, the power of appropriation could be, and was, used as a weapon by lawmakers to force their will upon reluctant executives. The governor's veto was weak because a simple majority in each house could override. Biennial elections of the treasurer, auditor, secretary of state, and attorney general prevented executive dominance of the major administrative offices. Party control of such offices could also change at midterm, further weakening a governor's influence.

The Democratic party controlled the executive branch from 1851 to 1861 through the administrations of Joseph A. Wright, Ashbel P. Willard, and Abram A. Hammond. For the next twelve years (1861-1873), Republicans controlled the office through the administrations of Oliver P. Morton and Conrad Baker. The

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[149] *Brevier*, 1887, pp. 613-14.

[150] Robertson, *Indiana Rebellion of 1887*, p. 8.

[151] In the only show of near unanimity in 1887, the Senate resolved 43 to 4 to ask Congress for a constitutional amendment to elect U.S. senators by popular vote. *Senate Journal*, 1887, p. 325.

1870s brought Democratic administrations headed by Thomas A. Hendricks (1873 to 1877), James D. Williams (1877-1880), and Isaac P. Gray (1880 to 1881). The parties alternated the governorship in the 1880s, with Republican Albert G. Porter serving until 1885, followed by Democrat Isaac P. Gray (1885-1889), and Republican Alvin P. Hovey (1889-1891).

Executive-legislative conflict was at a minimum while Joseph A. Wright was governor. When Democrats controlled the General Assembly, as in 1853, his vetoes were generally upheld.[152] In 1855 Wright killed two banking bills despite a hostile legislature because Democrats bolted before the majority could override.[153] In 1853 and 1855 Wright allowed temperance bills to become law despite personal objections because he believed, correctly, that the state Supreme Court would kill them. On the other hand, Ashbel P. Willard faced constant conflict with Republican-dominated legislatures. He had earned Republican animosity as lieutenant governor in 1855 when his vote in a contested election gave Democrats a majority in the Senate. Republicans retaliated in 1857 by bolting before an appropriation bill was passed. The ensuing fiscal crisis forced Willard to call a special session in 1858 that was dominated by Republicans. Although an appropriation bill passed, Willard was stymied at every turn thereafter.

In January, 1861, Oliver P. Morton became the first native-born Hoosier to serve as governor. Once in office he began to forge a Republican organization under his complete control. The Constitution designated the governor as commander-in-chief of the military and naval forces of the state and empowered him to use such forces to suppress insurrection or repel invasion. Although these provisions rarely enhanced executive power in normal times, during the Civil War they offered opportunities that a consummate politician like Morton was quick to seize. Since the Constitution further empowered the governor to appoint adjutant, quartermaster, and commissary generals, Morton also enjoyed patronage possibilities undreamed of by previous state executives.[154] A surge of patriotism and determination to save the Union overcame Hoosiers with the attack on Fort Sumter. The situation allowed Morton to reign supreme from April, 1861 to October, 1862. Then the Democratic party swept the midterm elections. A disconsolate governor telegraphed a friend: "We have lost the State legislature and all."[155]

Morton exaggerated; he was not a man to accept such a loss if he could help it. He decided he could rule without the legislature if he destroyed the

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[152] As one example, Wright vetoed a bill regulating suits against the state on grounds the new Constitution only allowed such litigation if it originated after the implementation of the Constitution, November 1, 1851. *Ibid.*, 1853, pp. 586-89.

[153] *Ibid.*, 1855, pp. 713-16; *House Journal*, 1855, pp. 790-94.

[154] Kettleborough, *Constitution Making in Indiana*, 1:327, 360. For Morton's relations with the General Assembly, see Lorna Lutes Sylvester, "Oliver P. Morton and the Indiana Legislature of 1863," in *Their Infinite Variety*, 123-54.

[155] Morton to D. R. Martin, October 17, 1862, Governor's Telegraphic Correspondence, Archives Division, Commission on Public Records, Indiana State Library. Democrats won both houses of the General Assembly, all major administrative offices, and seven of the eleven congressional seats.

credibility of Democrats in the General Assembly. His actions against Democrats between the election and the end of the 1863 session precipitated the conflict that put constitutional government in abeyance. Morton began by planting stories in the Republican press about Democratic plans for secession, armed uprisings, and sabotage. The governor warned President Abraham Lincoln that "The fate of the Northwest is trembling in the balance" because the legislatures of Indiana, Ohio, and Illinois planned to join the Confederacy.[156] Morton also informed the secretary of war that the Indiana General Assembly would acknowledge the Confederacy.[157] As Democrats arrived in Indianapolis for the 1863 session, the air was rife with rumors of Copperheadism, conspiracy, and plots.

Customarily, after both houses organized, the governor addressed a joint session to spell out his program for the biennium. This always impressive and sometimes inspiring ceremony developed from the constitutional provision that governors "shall from time to time, give . . . information touching the condition of the State . . . ." But the Constitution did not specify when, where, or how such information was to be given. Morton decided in 1863 to release his message to the press and send separate printed copies to each house rather than dignify the legislature with his presence. House Democrats were enraged by this irregular, almost unconstitutional act of "unquestionable discourtesy." Jason B. Brown of Jackson County put it most colorfully: "His Excellency had, by one of his hirelings—a man whom he kept to sweep out his office—sent his message to be flung contemptuously on the Speaker's desk."[158] In retaliation, the House lauded Democratic Governor Horatio Seymour of New York and condemned Morton for refusing to appear before the General Assembly. Morton, however, made it clear that the printed message was the only kind the legislature would receive. The governor won this first round because he enjoyed public support.[159]

After this initial fray, Democrats combed the Constitution to find ways to hamstring the governor. They found that the General Assembly could create a council of state officers "without whose advice and consent the Governor shall not have power to grant pardons . . . ." Since Democrats filled all major administrative offices, they proposed to create such a council with the stipulation that members "shall discharge all other duties imposed on them by law."[160] Other proposed bills would have packed the Board of Benevolent Institutions and the Indiana University Board of Trustees with Democrats, and gerrymandered the state to the virtual exclusion of Republicans.[161] Gravest of all was a militia bill that went for Morton's political jugular by proposing to deprive the governor of his wartime patronage powers. The Constitution stipulated that the state militia would be "organized, officered, armed, equipped, and trained in such manner

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[156] Morton to Lincoln, October 27, 1862, cited in Sylvester, "Oliver P. Morton and the Indiana Legislature of 1863," in *Their Infinite Variety*, 131-32.

[157] Morton to Edwin M. Stanton, January 3, 1863, *ibid.*, 132.

[158] For House reaction to the printed message, *Brevier*, 1863, pp. 21-27, 29, 31-34, 41.

[159] *Ibid.*, 93; *House Journal*, 1863, pp. 68, 92.

[160] Kettleborough, *Constitution Making in Indiana*, 1:331; *Brevier*, 1863, 119-21, 127, 234.

[161] *Brevier*, 1863, pp. 149, 153, 161; *House Journal*, 1863, pp. 426-27, 504, 557, 575.

as may be provided by law."[162] Democrats proposed to give the power of military appointments to a board of state officers. Militia leaders would be commissioned either by this board or elected by militiamen themselves. According to another provision, the militia might be called out on the warrant of a judge, mayor, or justice of the peace, thus potentially placing Morton under the orders of lesser magistrates.[163]

The majority agenda for the 1863 session was prepared amidst almost daily charges by Morton's supporters that Democrats were in treasonous consultation with southern emissaries. Democrats found an eloquent defender in the person of Speaker of the House Samuel H. Buskirk of Monroe County. On February 6, in response to accusations that his party favored an armistice and supported the establishment of a Northwest Confederacy, Buskirk denied the charges and added that Democrats would stick together. "We are a band of brothers. We think together; we act together; we vote together; we have done so since the commencement of the session, and we expect to do so until the close of it." In what could only have been an ominous note for Republican opponents of the militia bill, Buskirk affirmed that Democrats would even support passage of bills they personally opposed: "If a majority of my party decides in favor of [a] measure, which I do not altogether approve, I will still go with my party in preference to voting with the opposition."[164] On the same day that Speaker Buskirk spoke so tellingly about Democratic solidarity, Republican Senator Benjamin F. Claypool (Fayette County) expressed his party's hope that the militia bill "may not have friends enough to pass it—yet in no event will it pass." Claypool knew the governor. Since a simple majority in each house sufficed to override a veto, Governor Morton concluded that "there was but one way to prevent the passage . . . and that was to break up the legislature." The Republican bolt followed. Democrats were confident of a special session since no appropriation bill had been passed, but they reckoned without the resourcefulness of their adversary. On March 16, the *State Sentinel* published what its editor called a "semi-official dispatch" which explained a plan by Morton to run the state without any legislative appropriation.[165]

For the next twenty-two months, Morton did exactly that. The United States War Department provided the governor with $250,000 from a $2 million fund designated for use in states threatened with rebellion. Morton also used the profits from the state arsenal to help finance state government. He did not have to deposit such funds with the treasurer of state because the 1863 session had not legally recognized the arsenal. The governor also borrowed from banks, including a loan of $600,000 from the New York firm of Winslow, Lanier and Company.

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[162] Kettleborough, *Constitution Making in Indiana*, 1:358.

[163] *House Journal*, 1863, pp. 479-81, 619-25; *Brevier*, 1863, pp. 99, 155, 181-84, 192-94.

[164] Speech of Speaker, February 6, printed in Indianapolis *Weekly State Sentinel*, February 16, 1863.

[165] Claypool to Allen Hamilton, February 6, 1863, in Hamilton Papers, Indiana Division, ISL; William Dudley Foulke, *Life of Oliver P. Morton* (2 vols., Indianapolis, 1899), 1:239; Indianapolis *Weekly State Sentinel*, March 16, 1863.

In addition, he raised money through Republican officials in various counties. The action of John Comstock (House, 1859) of Wabash County was typical: " . . . his surplus funds were at the disposal of Governor Morton with only assurances (verbal) that they should be refunded when an appropriation was made."[166] Morton deposited all funds in his office safe and directed fiscal affairs through an *ad hoc* bureau of finance to avoid a clash with the state treasurer and auditor. By January, 1865, he had raised $1,026,321, and had spent without authority of law, $902,065.[167] When Democrats logically charged the governor with extralegal and unconstitutional actions, he responded with renewed charges of Copperheadism and instigated treason trials in Indianapolis on the eve of the elections in 1864.

By such tactics Morton became a virtual dictator; he also rose daily in popular esteem. So great was his popularity that Democrats did not dare question Morton's eligibility to run for governor in 1864 on grounds that he had already served four years in eight as governor. In short, Morton won the greatest gubernatorial conflict with the General Assembly in the state's history by winning the election of 1864 with more than a 20,000 vote majority. At the same time Republicans swept into control of both houses of the legislature, thereby saving the Civil War governor from financial and political ruin.[168]

Oliver P. Morton was unquestionably the most powerful governor of Indiana during the nineteenth century. His one-man rule, free of legislative restraints, was possible, however, only because of the Civil War. While his fight with the General Assembly exceeded all similar conflicts in bitterness and magnitude, it did not permanently strengthen the office of governor. Morton's successors for the balance of the century enjoyed neither more nor less success with the legislature than did his predecessors.

The failure to appropriate funds on time proved a frequent source of discord. In 1879, Democratic Governor James D. Williams assailed an overwhelmingly Democratic General Assembly for one such failure. Lawmakers would receive the "chastisement which faithless and incompetent representatives may always expect from an outraged constituency," said Williams, because of the needless expense of a special session.[169] Former Republican Speaker of the House John Overmyer echoed Williams' criticism during the session: "We have come as near to the accomplishment of nothing as could well be done" at a cost of $1,500

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[166] Comstock file, Legislator, IHSL. For the loan from Winslow, Lanier and Company, see Augustus Bradley file, *ibid.*, and Stampp, *Indiana Politics During the Civil War*, 182-84. The governor's financial manipulations are covered in Sylvester, "Oliver P. Morton and the Indiana Legislature of 1863," in *Their Infinite Variety*, 146-50.

[167] William B. Hesseltine, *Lincoln and the War Governors* (New York, 1948), 315. Hesseltine shows that Morton went further than any other governor in exceeding the constitutional limits of executive power.

[168] Stampp, *Indiana Politics During the Civil War*, 250-53. Chapter 8 of Stampp's book, covering the 1863 legislature and Morton's subsequent policies, is entitled "The Collapse of Constitutional Government," 158-85.

[169] *Brevier*, 1879 (s.s.), 9-10.

a day.[170] Lawmakers were neither chastised nor heedful, however, as 1881 marked the fifth consecutive General Assembly with a special session.

Most conflicts with the executive after the Civil War involved vetoes and overrides on party grounds. For example, in 1879 a Democratic legislature gave a Democratic governor the power to appoint trustees of benevolent institutions. In 1883, a Democratic legislature repealed this appointive power because a Republican governor was in office. Governor Albert G. Porter noted to no avail that when legislators elected trustees time was wasted "in useless political controversies to the great detriment of the business which . . . members were elected to discharge."[171] Republican Alvin P. Hovey vetoed eleven bills when confronted with a Democratic legislature in 1889. Most of the vetoed bills extended the patronage potential of the legislature and each became law in spite of the governor's objections.[172]

Apportionments, 1855 to 1885

The Constitution of 1851 replaced the former five year cycle of enumerations and apportionments with a provision that a count of voters should be taken in 1853 and every sixth year thereafter. At the first session following each enumeration the seats in each house were to be divided among the several counties. The intent was to form at regular intervals legislative districts that embraced as nearly as possible an equal number of voters. The Constitution also stipulated that districts embracing more than one county must be composed of contiguous counties and for senatorial apportionment no county could ever be divided. Thus, the framers also intended some degree of geographic balance among districts.[173] In this way the General Assembly was mandated to reapportion itself in 1855, 1861, 1867, 1873, 1879, and 1885.

The legislatures under the first Constitution had always passed required apportionments at the proper time. During the period 1851 to 1890, however, only five of the six mandated apportionments were passed, and none at the required time until 1867. In 1855 a House bill based upon the enumeration of 1853 was amended in the Senate. The House refused to concur and the session ended before the Senate could act upon the House refusal.[174] This failure caused Governor Joseph A. Wright to issue a proclamation stating that the 1856 elections would be based upon the 1851 apportionment law.[175]

In 1857 Governor Ashbel P. Willard called for apportionment even if it was late. Despite the division over electing United States senators, the legislators

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[170] *Ibid.*, 47.

[171] *Ibid.*, 1883, p. 221; *Senate Journal*, 1883, pp. 678-79, 694.

[172] *Senate Journal*, 1889, pp. 838-43, 1088-90, 1131-33, 1177-81, 1322-28, 1387-91; *House Journal*, 1889, pp. 892-98, 1085-87, 1113-15, 1322-23.

[173] Kettleborough, *Constitution Making in Indiana*, 1:312.

[174] *House Journal*, 1855, pp. 718-20, 729-31, 857-80, 912; *Senate Journal*, 1855, pp. 694-95, 701, 729-30, 770. See also Leon H. Wallace, "Legislative Apportionment in Indiana: A Case History," *Indiana Law Journal*, 42 (1966), 32.

[175] Indianapolis *Indiana Journal*, July 4, 1856.

complied. Since Republicans controlled the Senate and Democrats controlled the House, the resultant legislation represented a compromise acceptable to both parties.[176] While the act contained no "floats" (*i.e.*, districts in which representation alternated between specified counties in each session under the apportionment), it introduced "combined fractions" in House districting. This was a device whereby a county with more than enough population for one representative, but not enough for two, elected one representative separately and one jointly with a contiguous county. The act created seven fractional districts. It was clear that lawmakers knew their action came two years late since they entitled the law "An Act to apportion Senators and Representatives for the next four years."[177] (See Appendix B, Maps 23-24.) It would be 1867, however, before the act was superseded.

Governor Willard ignored the need for a population count in his biennial message for 1859 and, although an enumeration bill was introduced in the House, it failed to pass.[178] In 1861 three governors addressed the legislature and never once mentioned the lack of an enumeration or the need for an apportionment.[179] Lawmakers, distracted like the governors by secession and Civil War, failed to act on apportionment during both the regular and special sessions. In 1863, the year that Oliver P. Morton refused to address the legislature in person, the governor's printed message ignored both enumeration and apportionment. A gerrymander, which would have passed easily over a veto, was a factor in the Republican bolt that broke up the legislature. In 1865, with Republican majorities in both houses, Morton finally remembered to ask for an enumeration bill. The legislature acted during the special session in November, and a new count was made in 1866.[180]

Republicans controlled the legislature in 1867 and Representative James B. Belford spoke for all majorities for all time regarding legislative apportionment: "When we have a good thing we should keep it, and do everything to insure the success of the . . . party."[181] Belford's rule governed legislative districting in Indiana throughout the nineteenth century as partisanship always determined district lines and ratios of population to seats. The state Supreme Court confirmed this "well known historical fact" in 1892 when it stated that "as each party succeeded to power . . . it endeavored . . . to retain that power . . . very often in total disregard of the Constitution of the State demanding equality in representation."[182]

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[176] The act passed 62 to 17 in the House and 29 to 13 in the Senate. *House Journal*, 1857, pp. 1089-92; *Senate Journal*, 1857, pp. 729-32, 734-36, 797.

[177] *Laws*, 1857, pp. 6, 7. The "combined fractions" included Vanderburgh and Posey counties, Harrison and Washington, Johnson and Morgan, Shelby and Hancock, Hendricks and Boone, Wabash and Kosciusko, and LaGrange and Elkhart. Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:33-34 and Appendices G-1, G-2.

[178] *Senate Journal*, 1859, pp. 15-23; *House Journal*, 1859, p. 821.

[179] *Senate Journal*, 1861, pp. 19-28, 52-57, 88-89.

[180] *House Journal*, 1865, p. 30; *Laws*, 1865 (s.s.), 41-47.

[181] Indianapolis *Herald*, January 24, 1867.

[182] *Parker et al.* v. *The State, ex rel. Powell*, 133 Ind. 199.

The trick was to draw districts from contiguous counties in such a way as to ensure an increase in Democratic or Republican seats while retaining a surface appearance of equal representation for each district. The Hamilton-Tipton House district of 1867 illustrates the process. According to the enumeration of 1866 an ideal House district should contain 3,400 eligible voters. Hamilton County, with 4,203 voters, was given one representative, which left the county with a surplus of 803 voters. Tipton, with 2,116 voters, was 1,284 short of the figure needed for a representative. Hamilton's surplus was used as justification for combining Hamilton's population with Tipton's to form one district which was allotted one representative. But all of Hamilton County voted in the Hamilton-Tipton district, which meant that Hamilton had one representative exclusively and dominated the balloting for another. The act of 1867 established four similar districts.[183] (See Appendix B, Maps 25-26.) Each contained counties varying greatly in population; in each, the larger counties had separate representation while the smaller ones had no representation outside of the combined district.[184]

The Democratic minority of 1867 became the Democratic majority of 1871. Although apportionment was not due until 1873, a gerrymander was prepared and the Republican state organ declared " . . . should this bill become a law, the Republican party might carry the State [in 1872] by 15,000 majority, and yet under its provisions the Democracy would still control both branches of the General Assembly . . . ."[185] With Oliver P. Morton's United States Senate seat up in 1873, the bill was of more than ordinary concern to Republicans. William W. Conner of Noblesville, son of pioneer state Senator John Conner and nephew of William, was especially outraged. Conner held the seat from the Hamilton-Tipton floterial of 1867, a seat he was sure to lose because Democrats proposed to make Hamilton and Tipton counties "precisely equal" even though Tipton had less than half of Hamilton's population.[186] No number of Republican complaints could stop the bill in the House, however, because Democrats controlled it 56 to 44.

Senator Morton and Schuyler Colfax, the vice-president of the United States, directed Republican strategy from Washington, D.C. They borrowed a page from

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[183] The Allen-Adams Senate district and the La Porte-Starke, Kosciusko-Fulton, and Clark-Jefferson-Scott House districts. *Senate Journal*, 1867, pp. 434-40, 563-64; *House Journal*, 1867, pp. 661-62, 681-83; *Laws*, 1867, pp. 181-82. For an analysis of the apportionment, Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:37-41 and Appendices H-1, H-2.

[184] Districts of this type became common in Indiana and variations appeared in several other states. Such districts came to be called "floterial districts" in the twentieth century, but the term floterial was unknown in the nineteenth century. Leon Wallace nonetheless said that all Indiana apportionments from 1867 to 1965 created "unbalanced floterials"—*i.e.*, districts consisting of counties differing greatly in size with at least one county having separate representation while at least one other had no representation outside of the floterial. Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:34-37. The U.S. Supreme Court declared floterials unconstitutional in the 1960s and required the creation of state election districts that would approximate the rule of "one person, one vote." See below, pp. 502-3.

[185] Indianapolis *Indiana Journal*, February 24, 1871. The proposed bill is in *Brevier*, 1871, pp. 269-70.

[186] *Brevier*, 1871, p. 348.

the Democratic assemblymen of 1869 and ordered assembly Republicans to "defeat . . . Legislative apportionment, even by resigning if necessary."[187] After the bill passed the House, Morton wired "strictly private" instructions almost daily to Lieutenant Governor Will E. Cumback, who presided over a Senate that was Democratic 25 to 24. "Occupy the chair constantly!" Morton advised. "Decline to sign all bills." Cumback did as he was told and adjourned the Senate *sine die* on February 27, after thirty-four Republicans in the House broke a quorum by resigning. The General Assembly consisted of two houses, Cumback ruled, and if one could not function it paralyzed the other.[188] Some Democrats in the House wanted to stay on without a quorum but Isaiah B. McDonald convinced them "We are defunct . . . played out . . . up a stump. . . . Let us . . . go home, and save the people at least ten or twelve thousand dollars."[189] Speaker William G. Mack then adjourned the House.

The 1871 session broke up before an appropriation bill passed and Governor Conrad Baker waited until after Republicans swept the 1872 elections to call a special session. The 1872 special session, with Republican majorities, was counted as part of the 48th General Assembly that convened in regular session in 1873. The special session provided the governor with an appropriation, reelected Oliver P. Morton to the United States Senate, and enacted an apportionment that was "no better than its predecessors and no worse than those which would follow." A new touch called "double districting" was added to floterials. This device put counties with less than 3,789 voters (the ideal size) into two districts with larger counties. Such districts overrepresented the smaller counties, underrepresented the larger ones within them, and gave the whole area its proper ratio.[190] (See Appendix B, Maps 27-28.) Although Democrats protested the gerrymander as outrageous, it was used until the election of 1880.[191]

In 1879 Representative James Osborn, Jr., a Greenbacker from Vermillion County, wanted to divide the state into equally populated districts without regard to politics. Osborn's motion was tabled; and Democrats enacted "a repetition of the time-disgraced measures on this subject."[192] Minority Republicans issued the routine protests against an "infamous" gerrymander.[193] Democrats were especially innovative with floterials, doing indirectly that which could not be done directly—*i.e.*, they formed districts from noncontiguous counties.[194] Although the constitutionality of the act was never tested while it was in effect, the state Supreme Court did declare such floterials unconstitutional in 1892. "Counties

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[187] Colfax, Morton *et al.* to Will Cumback, February 20, 1871, Cumback Papers, Lilly Library, Indiana University, Bloomington.

[188] Morton to Cumback, February 21, 23, 24, 25, 1871, *ibid.*; *Brevier*, 1871, p. 377.

[189] *Brevier*, 1871, p. 365; for the resignations, *House Journal*, 1871, pp. 959-61, 966-67.

[190] *Laws*, 1872 (s.s.), 43-46. For the quotations and an analysis of the act, see Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:41-42 and Appendices I-1, I-2.

[191] *House Journal*, 1872 (s.s.), 653-55.

[192] Indianapolis *News*, February 14, 1879; *House Journal*, 1879, p. 88.

[193] *Brevier*, 1879, pp. 143, 219, 232.

[194] For an analysis of the act, Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:42-47 and Appendices J-1, J-2; for the act, *Laws*, 1879, pp. 38-41.

fully represented can not . . . be used for the purpose of joining counties which are not otherwise contiguous," the court declared. Otherwise, it added, Marion County could be made contiguous to Vanderburgh.[195] Since the court did not void the 1879 apportionment until seven years after it was superseded, the bill's constitutionality had no bearing on the sessions where it was used—1881, 1883, and 1885. (See Appendix B, Maps 29-30.)

In 1885 a Democratic General Assembly enacted the only apportionment act between 1879 and 1897 that was not declared unconstitutional by the state Supreme Court. The act did not escape censure because of any intrinsic merit. To the contrary, the justices stated in *Denney et al.* v. *The State, ex rel. Basler* (144 Ind. 503) that the 1885 legislation was replete with the evils condemned in *Parker et al.* v. *The State, ex rel. Powell* (133 Ind. 178). But the court, in declaring the apportionments of 1879 and 1891 unconstitutional, refused to address the validity of the 1885 act out of fear that the state would be left with no constitutional apportionment. In declaring the acts of 1893 and 1895 invalid, the court refused to investigate the 1885 act for the same reason. In *Fesler et al.* v. *Brayton* (145 Ind. 71), the court refused a third time to pass on the 1885 apportionment because it was the only act under which the 1896 election could be held. The judges feared that if they found the act defective and struck it down they might lead the people "into the troubled sea of anarchy . . . . The government of the State would be at an end."[196] In this way the Democratic gerrymander of 1885, condemned in bitter and blistering terms by the minority at the session, governed state elections until 1898.[197]

The 1885 act made ingenious use of floterials. For example, an ideal Senate seat would represent 9,893 voters. Marion County, with 29,812 voters, was entitled to three senators. But Marion County elected Republicans, so it received only two separate senators plus a joint senator with Shelby and Hancock counties. Both of the latter had Democratic pluralities in excess of the Republican plurality in Marion County. Largely Democratic Hancock County was joined with narrowly Republican Rush County in a second joint district while Democratic Shelby County was coupled with Republican Decatur County in a third. Similar methods were used to draw House districts as Democrats carved up the state so as to ensure themselves a majority in the legislature until the late 1890s.[198] (See Appendix B, Maps 31-32.)

Congressional Districting

The General Assembly passed five congressional districting bills between 1850 and 1890. Ideally, one should have passed at the first session after each

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[195] *Parker et al.* v. *The State, ex rel. Powell*, 133 Ind. 199.

[196] Quotation, *Fesler et al.* v. *Brayton*, 145 Ind. 77. For an analysis of the court's decisions, Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:44-53.

[197] *House Journal*, 1885, pp. 1130-32; *Senate Journal*, 1885, pp. 559-61.

[198] *Laws*, 1885, pp. 62-64. For a contemporary critical analysis, see Indiana Republican Committee, *The Infamous Gerrymander* (n.p., 1887), pamphlet in Indiana Division, ISL. See also Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:Appendices K-1, K-2.

United States census.[199] Only in 1852 and 1872, however, did the legislature come close to meeting this ideal. On both occasions action was prompted by an increase in the state's representation (to eleven seats after 1850 and to thirteen after 1870). Partisanship dictated the timing of the other bills in 1867, 1879, and 1885. In all five instances, lawmakers encountered problems similar to those posed by state apportionments.

The first districting bill of the period passed at the long session of 1851-1852 that implemented the new Constitution. Although the Democratic party dominated both houses, some leading Democrats fought the bill. William S. Holman, Robert Dale Owen, and William H. English wanted districting that would enhance their individual chances for a congressional seat; each voted with the Whig minority in the House.[200] In the Senate, Democrat Samuel S. Mickle moved with Whig George G. Dunn to amend the title to "An Act to gerrymander the State . . . and disfranchise a portion of the people . . . ." Dunn had served in Congress and was convinced the bill would ruin his chances to return. After the bill passed, he filed a formal protest and resigned from the legislature.[201] In 1852 Democrats won nine of the eleven seats under the bill; but Fusionists won five seats in 1854 and for the balance of the bill's life the parties split the seats almost evenly.[202] (See Appendix C, Map 55.)

Bolts and threats of bolts prevented passage of another bill until 1867. For example, Republicans introduced a districting bill in 1861 and Democrats walked out. The bolters typified the cavalier attitude of both parties; "I saw them pretty nearly all in a batch, and the answer was, 'Tell them to go to hell,'" said the Republican doorkeeper who tracked down the absentees. "I move that we don't do that [go to hell]," said Senator Michael D. White with levity. After White's motion was agreed to, Republicans dropped redistricting and the Democrats returned.[203] The Republican bolt in 1863 prevented a Democratic redistricting.

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[199] It is not clear that a state legislature was obliged to pass a congressional districting bill after each census. The U.S. Constitution provided that an apportionment must be made within three years of the first meeting of Congress, and "within every subsequent term of ten years." While the Constitution did not state that a new apportionment must be made after each census, such a requirement may be inferred. In 1850 Congress stipulated by law that an apportionment should be made after the Census of 1850 and after each subsequent decennial census. The stipulation was never enforced. See Congressional Quarterly, Inc., *Congressional Quarterly's Guide to the Congress of the United States: Origins, History and Procedure* (Washington, D.C., 1971), especially "Reapportionments and Redistricting," 499-516; Kenneth C. Martis, *The Historical Atlas of United States Congressional Districts, 1789-1983* (New York, 1982).

[200] *House Journal*, 1851-52, pp. 601-2. Holman and English both won seats in Congress under the act: English served for four consecutive terms beginning in 1853; Holman served almost continuously from 1859 until his death in 1897. A federal law of 1842 provided that districts must be of "contiguous territory" and an act in 1872 said districts should contain "as nearly as practicable an equal number of inhabitants." Congressional Quarterly, Inc., *Congressional Quarterly's Guide to the Congress of the United States*, 502, 504.

[201] *Senate Journal*, 1851-52, Mickle-Dunn amendment, 437, Dunn protest, 464-68. Dunn was elected to Congress in 1854.

[202] For the act, *Laws* (revised), 1852, 1:521-22.

[203] *Brevier*, 1861, p. 346.

Passage of the anti-bolting bill in 1867 assured that a quorum would be maintained and Republicans took advantage of the first opportunity their party had to divide the state into congressional districts.[204] (See Appendix C, Map 56.)

The Census of 1870 showed that Indiana was entitled to thirteen seats. Democrats controlled the legislature in 1871 when Republicans resorted to mass resignations to prevent passage of Democratic gerrymanders of state and congressional districts. After 1871 congressional districting went hand in hand with state apportionments. Republicans drew the boundaries for the districts in 1872 while Democrats drew the lines in 1879 and 1885.[205] (See Appendix C, Maps 57-59.) The minority protested each districting in words similar to those used to denounce the act of 1885. According to the Republican state committee "every one" knew that Democrats created "outrageously unfair" districts. Why? Because Republicans calculated that Democrats would control ten of the thirteen seats.[206] Such partisanship always prevailed as without exception the majority party at the time carved district boundaries to increase the number of its seats.

The Constitution of 1851 mandated six-year apportionment cycles and intended that legislative districts would be as nearly equal as possible in population. The failure to apportion the state accordingly constituted gross dereliction by the General Assembly. Faulty apportionments struck at the vitals of a government "republican in form" in which power was to be exercised by elected officers and representatives governing according to law. Malapportionment prevailed when there was no apportionment law because lawmakers failed to act or if the law was purposefully deficient. Four regular sessions (1857, 1863, 1865, and 1867) and one special session (1865) met after elections held under an outmoded apportionment. Except for 1868, all of the congressional elections in the 1860s were held under a districting bill based upon the Census of 1850. After 1867 state apportionments were made on time but on such a baldly partisan basis as to deny equal representation. The state Supreme Court found the 1879 act unconstitutional on precisely such grounds and strongly inferred that the 1885 act was likewise vulnerable. Congressional elections in 1882 and 1884 were held under a bill based upon the Census of 1870. Further, although black males were enfranchised by 1870, they were not included in apportionment until the word "white" was stricken from Article 4, section 4, of the state Constitution in 1881. This meant that seven regular and six special sessions met after elections at which blacks voted but were not counted in drawing state districts.

Recurring delinquent apportionments were evidence of legislative malfeasance. They were also part of a larger failure to meet other fundamental obligations of a state legislature. For example, the General Assembly alone could appropriate

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[204] *Laws*, 1867, anti-bolting act, 131, districting act, 108.

[205] *Ibid.*, 1872 (s.s.), 16-17; *ibid.*, 1879, pp. 103-4; *ibid.*, 1885, pp. 68-69.

[206] Indiana Republican Committee, *Infamous Gerrymander*, 2.

funds to operate state government. Yet the need for revenue led Indiana governors to call nine special sessions between 1858 and 1885 after regular sessions failed to pass appropriation bills. On two occasions (1857 and 1863) the failure was a deliberate ploy to force legislative dictates upon a reluctant executive. The General Assembly also found appropriations a convenient means of circumventing the sixty-one day limit on regular sessions. After 1872 every special session during the era followed immediately upon the close of a regular session that had failed to pass a revenue bill.

Other manifestations of malfunctioning grew out of United States Senate elections, control of the militia during the Civil War, and the ratification of an amendment to the federal Constitution. The election of senators halted the legislative process in 1855 and 1857. The bitter conflict with Governor Morton over the militia had the same effect in 1863. The enfranchisement of blacks paralyzed proceedings in 1869 and cast doubt on the legality of the ratification process. The state Senate's refusal to seat an elected lieutenant governor capped an era of irresponsibility in 1887. The session broke up amidst violence and threats of bloodshed with little significant legislation having been passed.

The fiasco of 1887 brought nearly four decades of persistent legislative dysfunction to a close. After 1890 the General Assembly was more responsible in meeting basic obligations. Although the legislature continued to elect United States senators until 1914, no such election paralyzed legislative proceedings. Appropriation bills also were nearly always passed on time so that special sessions became less routine. There was continued irresponsibility, however, with respect to state apportionments. The legislatures of the 1890s passed bills at four consecutive sessions before the state Supreme Court found one in 1897 that was constitutional. The repeated refusal to deal responsibly with apportionment was the one shortcoming that persisted into the twentieth century. The state Constitution continued to mandate enumerations and apportionments every six years. But the legislature passed acts that withstood tests of constitutionality only in 1905, 1915, and 1921. After 1921, it did not pass another apportionment act until 1963. In that year it acted only because the federal courts threatened to impose a reapportionment plan on the basis of one person, one vote. For forty-four years, a time span embracing more than seven apportionment cycles, the Indiana General Assembly failed to meet the clear mandate of the state Constitution. The precedent for ignoring essential constitutional mandates was established during the era of legislative dysfunction between 1851 and 1889.

Chapter 7

The Legislative Process

Nomination for a seat in the House or the Senate remained the first step toward participation in the legislative process between 1850 and 1890. Before organized political parties settled on the convention method of nomination about 1840, would-be lawmakers most frequently nominated themselves. Sometimes they were nominated by friends; in a few instances candidates were named by groups of interested constituents such as militia companies. After the advent of the two party system during the last decade of the pioneer era, the convention method of nomination became standard for most candidates. This remained the case during the second half of the nineteenth century as nominations were tendered almost exclusively through county or district conventions of established political parties. Other forms of nomination became obsolete as even third parties used the convention system to choose those who would run for the General Assembly.

Running for Office

Securing endorsement by a party convention sometimes proved simple. For instance, during the summer of 1851 while Joseph Struble worked in his hay field, a delegate from Bartholomew County approached him and said "Struble, the Democrats have nominated you to day as their candidate for representative in the next Legislature." Struble served two terms. The Whigs of Jennings County had to persuade their candidate "to try for the Honors" in 1851 when they nominated Edward P. Hicks "without my knowledge." Hicks was elected and returned home after the session "not having an Exalted opinion of Politicians in general." He never sought another office. Democrats in Clay County nominated Adam C. Veach in 1862 without any solicitation on his part. Veach served two terms even though he objected to "the methods employed . . . by . . . the political 'machine.'" Edward A. Metzger (House, St. Joseph County, 1887) was another Democrat nominated with no effort on his part. In 1889 Republicans in Elkhart County even nominated a man who actively fought the endorsement: Oscar F. Dewey, an agent for the United States Express Company, refused to run for fear he would lose his job. Republicans petitioned the company to retain Dewey, however, and "contrary to all precedents in such cases," he received a leave of absence, ran, and won.[1]

Such unsolicited drafts were the exception. More often the road to the General Assembly began with party work in the precincts, townships, towns, cities, or counties. Nearly 60 per cent of the legislators between 1851 and 1890

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[1] Struble, Hicks, Veach, Metzger, and Dewey files, English Legislator Collection, Indiana Historical Society Library, Indianapolis.

are known to have held local office before advancing to the General Assembly.[2] Once an aspirant established his party regularity by working on one of these levels, he might actively seek nomination for the legislature. To succeed, he usually needed the county chairman's endorsement and, in multi-county districts, endorsement by each chairman was beneficial. As a rule the man who had earned his spurs in a local office was supported by the county leadership and became the nominee.

Intra-party fights and county rivalries could complicate the nomination process. For example, Fountain County Democrats split in 1851 over the location of the county seat. Former United States Senator Edward A. Hannegan, the champion of keeping the county seat at Covington, received the convention's nod. Those who wanted the seat moved to Chambersburg ran Jacob Dice. Both candidates were lifelong Democrats and, although the new Constitution was up for ratification, the canvass was conducted solely on the county seat question. Dice defeated Hannegan by 168 votes and introduced a bill to relocate the seat; the House judiciary committee killed Dice's bill on grounds that it was the kind of local legislation forbidden by the new Constitution.[3]

Fights for nomination sometimes split a party so badly that the opposition won the election. Thus Republican David J. McMath, who had only "slim hopes" in Clinton County in 1886, won by eighty-eight votes when Democrats refused to unite after a bitter convention struggle.[4] Possibly the longest fight for nomination revolved around the seat for joint senator from Morgan, Johnson, and Brown counties in 1886. James F. Cox of Martinsville and Joseph J. Moore of Trafalgar deadlocked for 102 ballots at the district Democratic convention at Morgantown. In what Mrs. Cox remembered as "the most hotly contested convention . . . ever known" in these counties, her husband picked up one vote from Brown County on the final ballot to gain nomination. Democrats then united behind Cox and he won the seat.[5]

Although the legislature did not enact a primary election law until 1901, county organizations sometimes used primaries to select legislative candidates.[6] Howard County Republicans were among the first to do so as Daniel D. Lightner (House, 1861) won the nomination in April, 1860.[7] Party primaries were also used in a few other counties. The Wayne County Republican convention arranged for one to be held on April 4, 1870, "to express the choice of the party for

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[2] See Appendix A, Table 11. Statistics are based upon quantification of the data in *A Biographical Directory of the Indiana General Assembly* (2 vols., Indianapolis, 1980, 1984), Vol. 1, *1816-1899*, Vol. 2, *1901-1984*.

[3] Dice file, Legislator, IHSL.

[4] McMath file, *ibid.*

[5] Mrs. James F. Cox to William H. English, February 24 (no year), in Cox file, *ibid.*; Franklin *Republican*, June 17, 1886.

[6] For the development of the primary election system in the state, see John Frederick Connell, "Indiana Primary Laws," *Indiana Magazine of History*, 18 (1922), 224-38.

[7] Lightner file, Legislator, IHSL. Republicans in Howard County continued to nominate candidates by primary elections until at least 1892, when Richard Bassett defeated four rivals for the nomination. See above, pp. 163-64.

all candidates to be elected in October." Only Republicans eligible to vote in a general election were allowed to participate.[8] Knox County Democrats had adopted a primary system by the early 1870s. The county executive committee controlled every facet of the election, including the determination of voter qualifications. Only persons of legal age "known to be a Democrat" could vote.[9] Henry S. Cauthorn of Vincennes won the nomination in 1870 without canvassing. "It will not be expected of me to make a canvass . . . previous to the primary . . . " he wrote to voters, "but I hope my friends will not forget me . . . ."[10] Cauthorn went on to win election to the House. As an incumbent in 1872 he refused a suggestion from one Democratic aspirant to discuss their "respective 'Claims' in a friendly manner" before the primary.[11] Cauthorn won anyway and in October was elected to a second term.

The new Constitution provided that general elections should be held biennially on the second Tuesday of October, a practice that continued until 1881 when state elections were moved to November to coincide with presidential elections. As an "October state" with evenly balanced parties, Indiana served as a political barometer for state and presidential balloting in November.[12] During Indiana's first October election campaign an Evansville newspaper spelled out one of the difficulties this early voting posed for those seeking a seat in the General Assembly: "There is considerable political or party excitement in relation to the candidates for the higher offices, yet very little in connection with those running for the Legislature . . . ." According to this newspaper voters were strongly partisan when it came to the election of state officers, especially the governor. But with legislative candidates, they were more concerned with an individual's qualifications than with his party affiliation.[13] Thus, partisanship was more important in influencing votes for state office and assembly hopefuls received less attention from the dominant state central committees. Since the state headquarters allocated funds, arranged speaking schedules, and printed most of the literature, legislative campaigns were of secondary importance with local issues and personalities subservient to state or national party goals. Even "treating," the practice whereby candidates personally dispensed whiskey or apples or money on election day, gave way to more sophisticated and impersonal forms of influence. Such practices were now more likely to be directed from a distance—frequently by the state headquarters and during presidential elections by the national party campaign committee.[14]

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[8] See account of Wayne County Republican convention in Vincennes *Western Sun*, February 26, 1870.

[9] *Ibid.*, March 12, 19, 26, 1870, January 27, March 16, 1872. Quotation, January 27, 1872.

[10] H. S. Cauthorn to the People of Knox County, February 14, 1870, election leaflet in Cauthorn-Stout Collection, IHSL.

[11] C. E. Cram to Cauthorn, February 1, 1872, *ibid.*

[12] Charles Kettleborough, *Constitution Making in Indiana* (3 vols., Indianapolis, 1916, 1930), 2:134ff, 152-53, 202-7. For the importance of Indiana's October elections, Paul Tincher Smith, "Indiana's Last October Campaign," *IMH*, 19 (1923), 332-45.

[13] Evansville *Daily Journal*, October 6, 1852.

[14] For an account of how state and national campaign committees sometimes corrupted state

In every era nearly every legislative candidate has stumped his district in search of votes. Since they have rarely been the center of attention during campaigns, would-be lawmakers spent much of their time between nomination and election establishing name recognition and trying to persuade voters.[15] In the process, between 1850 and 1890, they contended with insects, dust, heat, and discomfort as well as with their opponent. All relied chiefly on the spoken word and one widely used device to stir interest was a joint canvass by the chief protagonists.[16] Whether individuals campaigned on their own or with others, however, they usually sought the support of outside speakers. State committees received almost as many requests for speakers as they did for money. One county might need "a man to stir the old *Whigs*"; another a man whose "known and determined opposition to slavery extension" would draw a crowd. In 1856 officials in Orange County were willing to settle for any Republican because "the people, as yet, have never heard even *one* Republican speech." Fountain County also wanted a Republican speaker that year after a torchlight procession of seventy-five to eighty German and Irish Democrats marched "under the Cross" in support of their party.[17]

State headquarters spent June and July during election years mobilizing and assigning speakers for a campaign of near saturation prior to October. A congressional representative, a United States senator, a governor or ex-governor, sometimes even a well-known national figure, were all used to supplement (and overshadow) assembly nominees. Converts from the opposition were especially popular. Oliver P. Morton, expelled from the Democratic party in 1854 for his opposition to the Kansas-Nebraska Act, was the most sought after Republican speaker in Indiana by 1860. In 1880 Democrats used such well-known abolitionists-turned-Democrats as George W. Julian and former United States senator from Wisconsin James R. Doolittle, as well as seasoned party veterans Thomas A. Hendricks and William S. Holman.[18]

Former Congressman Julian, as a celebrity, stole the show from the legislative candidates when he toured the state in 1880. He began on September 1 at New Castle and ended on October 11 at Wabash, delivering variations on his speech

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elections prior to 1889, see Robert La Follette, "The Adoption of the Australian Ballot in Indiana," *IMH*, 24 (1928), 105-20.

[15] James Rudder (House, 1873, Washington County) was a definite exception when he won his seat "without any effort" because he believed "the people should select their own officers without persuasion." Rudder file, Legislator, IHSL.

[16] Typical joint canvasses were conducted by Smiley N. Chambers and Henry S. Cauthorn in Knox County in 1872 and by John R. Cushman and William M. Copeland in Jefferson County in 1884. See Chambers to Cauthorn, August 15, 1872, Cauthorn-Stout Collection, IHSL; Cushman file, Legislator, IHSL.

[17] A. B. Hunter and others to Henry S. Lane, August 21, 1855; D. W. Cox and others to same, July 12, 1856; John H. Steers and others to same, August 15, 1856; William Crumpton to same, June 28, 1856, all in Lane Papers, IHSL.

[18] For the work of a state committee during a typical campaign, see Albert V. House, "The Democratic State Central Committee of Indiana in 1880: A Case Study in Party Tactics and Finance," *IMH*, 58 (1962), 179-210.

"The Duty of Independent Voters" to twenty-two different audiences in forty-one days. Julian traveled by horse and buggy, train, and boat at all hours of the day and night. Crowds of up to 15,000 ("acres of people") greeted him; at each stop Democratic candidates for the Indiana House and Senate appeared and spoke briefly.[19]

Next to speeches, candidates relied on party newspapers as indispensable vehicles of party propaganda and supplemental campaign literature. The state party organs were the most important and received the most financial help. The *Indiana Journal*, which said in 1854 that it could no longer be considered a Whig newspaper, made an easy transition to the Republican party by 1856 and retained its party position until the twentieth century.[20] The *Indiana State Sentinel* proved equally long-lived for the Democrats.[21] In addition to campaign propaganda, these newspapers also printed official instructions for local officials. Each candidate and county chairman was expected to keep the state paper informed of developments at every stage of the campaign. An instruction leaflet from the Democratic state central committee in 1868 was typical: "Send to the Sentinel the result of the vote in your county as early as possible. If you can not give a complete report on the night of the election, send the probable result." This was signed by J[oseph] J. Bingham, the state secretary who also was publisher of the *Sentinel*.[22]

Lesser newspapers were also important to assembly campaigns because they printed the speeches and statements of the candidates. This allowed nominees to assure local partisans that "upon *all questions of a political nature*, I shall be found acting and voting . . . *with that great party with which I have ever affiliated* . . . ." At the same time, independent voters could be told that in "*questions of mere policy*, I will vote and act . . . [for] *economy, retrenchment and reform in every department of the public service* . . . ."[23] Most county editors considered their newspapers the key to local success and they always wanted more money from state headquarters. The La Porte *Journal* reminded the state chairman in 1880 of a promise to "take care of the press" and asked for money. The paper in Elkhart needed "a few hundred dollars" if Democrats expected to carry that county. Editors in Spencer and Perry counties also needed money to get the message to voters. They cared not how it was raised, respectively

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[19] *Ibid.*, 203-4; George W. Julian Journal, October 14, 1880, Julian Papers, Indiana Division, Indiana State Library, Indianapolis.

[20] Indianapolis *Indiana Journal*, October 23, 1854. This newspaper continued publishing until June 8, 1904.

[21] The Democratic state organ was called the *Indiana State Sentinel* from July 21, 1841, to July, 1865. From July, 1865, until April 13, 1868, it was named the Indianapolis *Herald*. It became the Indianapolis *Sentinel* in April, 1868, and kept this name until its demise, February 26, 1906.

[22] Instruction leaflet dated September 29, 1868, Cauthorn-Stout Collection, IHSL. The *Sentinel* received just under $1,000 from the Democratic state committee between August and October 4, 1880, for special printing. House, "The Democratic State Central Committee of Indiana in 1880," *IMH*, 58:192-93.

[23] Campaign statement from Vincennes *Western Sun*, February 19, 1870, in Cauthorn-Stout Collection, IHSL. Emphasis in original.

telling the central committee it could come "from any quarter" or "from any other source."[24] The Democratic state committee thought the upstate and downstate newspapers important enough that it ordered one local paper delivered to the doorsteps of doubtful voters for three weeks prior to the election of 1880. The committee also paid for distribution of 1,000 copies of German language newspapers to German voters during each week of the campaign.[25]

The Process of Voting and Contested Elections

One change in the conduct of elections under the new Constitution was the specification that a voter "shall be entitled to vote, in the township or precinct where he may reside."[26] This meant the county seat no longer became a general gathering place on election day. The Registry Law of 1867 clarified residency by stipulating that a voter must be a bona fide inhabitant of the township, city, or ward at least twenty days before the election. Another provision of the 1867 law stated that all ballots must be printed on plain white paper with no distinguishing marks or embellishments other than the names of candidates and the offices they sought.[27] This last was included because Democratic and Republican county election committees provided the ballots but had used no set format and kept no count of the number of ballots furnished. They had included party symbols on the ballots and used different colored paper to make identification by party easier. The instructions from the Democratic state committee for the first election under the Registry Law stipulated that ballots should not be headed "Democratic ticket" or contain any device such as an eagle or a cannon.[28] The county election committees continued to make ballots distinct, however, by printing them on different shades of white paper with differing dimensions, and by the use of heavy ink so that they could be read on the reverse side by election inspectors. An act in 1881 sought to standardize dimensions by specifying that ballots must be "of a uniform width of three (3) inches."[29]

After the Civil War the two major parties were almost exactly balanced in Indiana. In the twelve general assemblies from 1867 to 1889, each party

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[24] Henry Goodman to William H. English, August 12, 1880; G. F. Shutt to same, July 1, 1880; Heber J. May to same, August 17, 1880; and Hiram M. Logsdon to same, July 28, 1880, all in English, IHSL. English, chairman of the state central committee in 1880, was a candidate for vice-president of the United States.

[25] House, "The Democratic State Central Committee of Indiana in 1880," *IMH*, 58:193.

[26] Kettleborough, *Constitution Making in Indiana*, 1:304. Other mechanics of elections were unchanged. County commissioners still appointed an inspector of elections for each township or precinct. He appointed two additional election judges and the three of them selected two clerks. The inspector opened and closed the polls; after the balloting closed, the inspector and a judge read aloud the names on each ballot while the two clerks tallied the results. After being certified by the judges, the results were delivered to the clerk of circuit court who, with the sheriffs in multicounty districts, then declared the winners. See above, pp. 83-84.

[27] *Laws*, 1867, pp. 113-20.

[28] Instruction leaflet dated September 29, 1868, in Cauthorn-Stout Collection, IHSL.

[29] *Laws*, 1881, pp. 482-503, quotation, 487. For particulars on the size and color of ballots and an analysis of the difficulties in keeping the ballot secret, see La Follette, "The Adoption of the Australian Ballot in Indiana," *IMH*, 24:105-20.

controlled the House six times; in the Senate Democrats enjoyed majorities at seven sessions, Republicans at four sessions. (In 1881 neither party had a Senate majority.) Gubernatorial elections from 1868 to 1888 were frequently decided by less than a 1,500 vote difference between winner and loser. The state was also a prime battleground for electoral votes every four years: the Democratic candidate carried it in 1876 and 1884; the Republican in 1880 and 1888. In each instance the margin was less than 7,000 votes out of more than 400,000 cast. With the stakes so high, the temptations to engage in ballot tampering and electoral fraud were great for both major parties. Indeed, one provision of the election act of 1881 spelled out the mechanics of voting so that the opportunities for intimidation of voters increased. According to the act, when a prospective voter appeared at the polling place the inspector of elections pronouced his name "in an audible voice" before he received his ballot. The voter then deposited his ballot unopened in the ballot box as his name was repeated distinctly by one of the other judges.[30] As the stakes rose at the gubernatorial and presidential levels, the temptations increased. State committees spent thousands of dollars every four years to swing gubernatorial elections.[31] By the 1880s the national parties poured additional thousands of dollars into Indiana as instances of bribery, importation of voters, and fraud multiplied. The climax came with the presidential election of 1888, when Democrat Grover Cleveland ran against Indiana's own Benjamin Harrison. In that year an attempt by the Republican national committee to purchase the state's electoral votes for Harrison drew national attention to Indiana's corrupt election practices.

On October 31, about a week before the election, the Democratic Indianapolis *Sentinel* published a typewritten letter bearing the autograph signature of William W. Dudley, national treasurer of the Republican party. The letter was addressed to a Republican county chairman in Indiana and offered detailed instructions on how to get enough "floaters"—*i.e.*, voters imported from abroad—voted in Indiana to ensure that the Republican ticket carried the state. The letter promised that "There will be no doubt of your receiving the necessary assistance . . . ." On election day, the Democrats carried both houses of the legislature by large majorities but Harrison and Republican gubernatorial candidate Alvin P. Hovey each won by less than 2,400 votes out of a total of more than 524,000 votes.[32]

Ballot reform became mandatory when the Dudley letter focused national attention on Indiana. It was also necessary for legislative elections because the process of getting into the General Assembly did not necessarily end with the close of the campaign. The loser could always contest the result before the Senate

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[30] *Laws*, 1881, pp. 488-89.

[31] For corruption by state committees, see La Follette, "The Adoption of the Australian Ballot in Indiana," *IMH*, 24:105-14, and House, "The Democratic State Central Committee of Indiana in 1880," *IMH*, 58:198-208.

[32] For the Dudley letter and the election results, see R. Carlyle Buley, "The Campaign of 1888 in Indiana," *IMH*, 10 (1914), 179-85, quotation, 181. For a contemporary view of the need for election reform, see William P. Fishback, *A Plea for Honest Elections* (Indianapolis, 1886), pamphlet in Indiana Division, ISL.

or House election committees. Contests were usually settled on a blatantly partisan basis and were most numerous when the General Assembly was scheduled to reapportion the state or elect a United States senator. Then charges of bribery or fraud abounded and almost without exception the merits of a particular case were meaningless. Contests were simply decided in favor of the party which enjoyed a majority in the particular house at the time.[33]

The most prolonged contest occurred in 1871 when Senate Democrats refused to seat John W. Burson from Delaware County. Burson was charged with securing his election through bribery, and the efforts of Republican Lieutenant Governor Will E. Cumback to seat him proved futile though almost one third of the session days were consumed in the effort. Although the politically independent Indianapolis *News* described the ousting of Burson as "the most perfect and symmetrical outrage ever attempted by any Legislature under the sun," it was in keeping with the axiom that the party with the votes decided the contest.[34] Only once was a contest decided against the majority. In 1881 Representative Lee Hazlewood from Orange County relinquished his seat after two days because he was convinced that Hamilton C. Hammond had won the election. Hazlewood's act of generosity, unprecedented in the annals of contested elections during the nineteenth century, was allowed only because his fellow Republicans enjoyed a 59 to 41 advantage.[35]

Two developments led the General Assembly to reform the election laws in 1889. First, during the wild session of 1887 House Republicans and Senate Democrats threatened literally to unseat the minority to maintain votes on joint ballot. By the end of the session both parties saw that drastic action was needed to restore the integrity of the electoral process. Secondly, the buying of votes by both parties during the Cleveland-Harrison campaign of 1888 was so open and widespread as to disgrace the state. In 1889 outgoing Democratic Governor Isaac P. Gray spoke of the "imperative necessity for a revision of the election laws" while incoming Republican Governor Alvin P. Hovey felt "we can not shut our eyes" to the charges of fraud and corruption that accompanied every election.[36] Democrats controlled the General Assembly but legislators of both parties were ready to act. Electoral reform bills were introduced in each house and the act that passed made Indiana the second state to adopt a version of the secret ballot developed in Australia earlier in the decade. Thus, passage of "An Act Concerning Elections" made Indiana a pioneer in election reform. By 1892, thirty-five out of forty-four states had adopted some form of the Australian ballot.[37]

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[33] For examples of contests settled on party line votes when a U.S. senator was to be elected, see Democratic unseating of Leonidas Sexton, *House Journal*, 1857, p. 1201, and Republican unseating of Leroy Woods, *Senate Journal*, 1857, pp. 222, 273, 277, 285, 470-76.

[34] Indianapolis *News*, February 20, 1871. For the Senate action on Burson, *Senate Journal*, 1871, pp. 5-9, 83-88, 649-62, 670-72, 699-704; Indianapolis *Indiana Journal*, February 2, 1871.

[35] *House Journal*, 1881, pp. 30-31; Hazlewood file, Legislator, IHSL. Hazlewood's tenure of two days was the briefest of any assemblyman between 1851 and 1889.

[36] *Senate Journal*, 1889, pp. 45-46, 103-5, quotations, 45, 103.

[37] La Follette, "The Adoption of the Australian Ballot in Indiana," *IMH*, 24:118. For the

The act specified that the ballots must be of uniform size on paper of the same color and quality and sufficiently thick that printing could not be distinguished from the back. The ballots were to be prepared either by the state or county boards of election and given to the voter at the polling place. Nominees were to be listed under the name of the party designated by them, with Democrats in the first column on the left side, Republicans in the second column, Prohibition party nominees in the third, and those of any other party in such order as the Board of Election Commissioners should decide. Each voting place must have a passage with a railing, rope, or wire on each side commencing fifty feet away and leading to the polling place. One challenger and one pollbook holder were allowed to stand at the sides of the passageway but no other person could be within fifty feet of it except to vote.[38]

The immediate result was restoration of popular confidence in the integrity of Indiana's election process. Also, although contested seats in the legislature continued to be settled sometimes on a palpably partisan basis, the grounds became more credible than unprovable charges and countercharges of bribery, ballot stuffing, and fraud. The act of 1889 marked one of the more important accomplishments of the Indiana General Assembly in the second half of the nineteenth century.

Speakers of the House

The first order of business after each house convened was the election of officers. As under the Constitution of 1816, the speaker of the House was the most important. He selected committees and named their chairmen, ruled on motions and procedures, and determined the order in which bills would be considered; he voted on every question except where he expressly waived the privilege; he could, if he chose, make a speech on every proposition. More than any other member, the speaker was courted by colleagues, lobbyists, and special interest groups.

Because of the inherent power of the speakership, men of more than ordinary qualifications usually filled the office. Of the twenty-two men (eleven Democrats and eleven Fusionists/Republicans) who served as speaker during the twenty sessions between 1851 and 1889, better than two thirds attended college as opposed to 29 per cent of all those who served in the House. The office was dominated by the legal profession as nineteen practiced law for a livelihood in contrast to 27 per cent of the total members. Two speakers, John W. Davis (1851-1852) and Oliver B. Torbet (1853), practiced law as a secondary occupation; Davis was primarily a physician while Torbet was primarily a newspaper editor. Only David C. Branham (1867) was elected speaker with no experience as a lawyer. As a railroad executive, however, Branham held a more than ordinary occupation. Astonishingly, although 44 per cent of the representatives engaged in farming

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ballot reform movement nationally, see Lionel E. Fredman, *The Australian Ballot: The Story of an American Reform* (East Lansing, Mich., 1968).

[38] *Laws*, 1889, pp. 157-86.

as a primary or secondary occupation, not one of the twenty-two speakers was a farmer. The older counties continued to dominate the office as fifteen speakers came from southern Indiana. Three Republicans—David Kilgore (1855), John U. Pettit (1865), and Warren G. Sayre (1887)—came from the newer northern counties. The other four, illustrating the importance of Indianapolis, came from Marion County, which had more speakers than any other. At least nine of the twenty-two were Freemasons.[39] (See Appendix A, Table 1.)

No one served more than once as speaker during the era and few found it a steppingstone to higher office. Six men were elevated to the speakership at the only session in which they served. Two of these, William H. English (1851-1852) and William D. Bynum (1883), stepped immediately into extended careers in the United States House of Representatives. The experience of William M. Ridpath (1881) was more typical of the single term speaker-legislators. Twenty years after Ridpath's term an Indianapolis magazine remembered only that "the Speaker of 1881 was a man of the name of Redfield [*sic*]. His election was one of the anomalous departures that sometimes occur in politics as he had no public renown when elected and dropped completely out of sight when his term closed."[40] Thirteen of the twenty-two speakers never returned to the legislature; twelve never held another elected office. One of the latter, John U. Pettit, had served three terms in Congress before being speaker. David Turpie (1875) had the distinction of serving in the United States Senate both before and after his speakership. Samuel H. Buskirk (1863) was elected to the state Supreme Court, serving from 1870 to 1876. No speaker advanced to elected office in the executive or administrative levels of state government. Indeed, only one, Jonathan W. Gordon (1859), was even nominated; he ran for attorney general on the Republican ticket in 1876 and lost.

The most hotly contested race occurred at the long session of 1851-1852. William H. English, fresh from his triumph as secretary of the Constitutional Convention, ran against John W. Davis. Davis had served twice previously as speaker in Indiana and from 1845 to 1847 as speaker of the United States House of Representatives. "I will cheerfully submit to the wishes of a majority of our friends," Davis wrote to English, confident that the Democratic caucus would endorse him as the more experienced man. To placate English, Davis added that "what-ever may be my position I shall not fail to exercise all proper means to promote your political and private advancement."[41]

But English refused to withdraw and continued the contest even after Davis was elected. As the session unfolded, and the House floundered in the monumental task of implementing the new Constitution, English organized the effort to adjourn for a month while committees hammered out the difficulties. In February he

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[39] Information on the speakers is drawn from quantification of the data in *BD*, vols. 1 and 2.

[40] *Illustrated Indiana Weekly*, January 5, 1901, p. 7. Ridpath moved to South Dakota and served as an Indian agent for several years. Eventually he settled in the state of Washington where he once ran unsuccessfully for governor. Ridpath obituary, Brazil *Daily Times*, August 10, 1914.

[41] Davis to English, October 3, 1851, Davis file, Legislator, IHSL.

forced the vote whereby a ruling by Davis against adjournment was overturned on the floor. On March 6, convinced that he had lost the confidence of his party, Davis resigned; on March 8, after unanimous endorsement by the Democratic caucus, English was elected. The new speaker immediately talked about the need for "concession and compromise" and steered through a resolution emphasizing that any differences between the House and Davis grew from "opinion and not from any disrespect intended on the part of the House."[42]

The work of the long session moved forward after English, with his enormous knowledge garnered as secretary of the Constitutional Convention, took over. As a result, English was remembered as one of the more effective speakers during the second half of the nineteenth century. Although "demagogues and croakers" might criticize the handiwork of the long session, English believed it was the most important legislature that ever convened in Indiana. He developed a lifelong attachment to all who served regardless of party. "Let us separate as a band of brothers, each one prepared to say of the other through the rest of life," he exhorted in his last words as speaker, "he is my friend; we served together in the first legislature under the new Constitution."[43]

English made a conscious effort to avoid "affected sentimentality" in his concluding remarks as speaker. But the valedictories of many speakers bordered on the maudlin. For example, in 1859 Jonathan W. Gordon offered the usual wishes for health and happiness and added a hope that after death "each of you may be prepared to hear the roll-call of the Great Presiding Office[r] of the Universe, and so enter into the chambers of the blessed."[44] Ten years later, Ambrose P. Stanton confined himself to earthly concerns in hoping members would find "the loving welcome of an affectionate wife—the caresses, the fond caresses of the dear little ones" upon returning home. "May these holy associations make you happy, and preserve and guard the purity of your lives," Stanton concluded.[45]

David Kilgore, Jonathan W. Gordon, and Warren G. Sayre were among the more able non-Democratic speakers. According to the Democratic *State Sentinel*, in naming Kilgore "the House betrayed a decided preference for that high-toned morality and immaculate purity, which . . . looks to . . . heaven for its reward."[46] Kilgore was the first speaker from Delaware County, an avowed Know Nothing, and an ardent prohibitionist. In 1856 he won a seat in Congress where he served until 1861. Gordon became speaker because "my friends have put me forth . . . and I want it." Gordon wanted the office for a unique reason: he

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[42] *House Journal*, 1851-52, Davis resignation, 1197, statement by English, 1201-2, resolution praising Davis, 1207. See also Richard F. Donaldson file, Legislator, IHSL.

[43] *House Journal*, 1851-52, pp. 2208-10. English believed until his death that an almost mystic bond united those who had served in the 36th session. In 1885 he arranged for and presided at a reunion of survivors.

[44] *Ibid.*, 1859, pp. 1150-58, quotation, 1158.

[45] Ariel and William Drapier (comps.), *Brevier Legislative Reports* (Indianapolis, 1858-1887), 1869, p. 600.

[46] Indianapolis *Indiana State Sentinel*, January 23, 1855.

lectured three nights a week in a law school and "if I can get to be Speaker, I will be released from Committee Labor, and have my nights free for my class."[47] Sayre, who preferred being "among the first in the Indiana Legislature" to being "among the last in Congress," was remembered as an able and adroit parliamentarian despite the fact that he presided at the chaotic session of 1887.[48]

A Republican speaker was one of the casualties in 1869 when Democrats broke up the regular session by resigning. Although the House resolved to keep the same officers during the special session, Speaker Ambrose P. Stanton resigned because "I have found my arduous and responsible duties not altogether to my liking." The House elected another Republican, George A. Buskirk, in Stanton's place.[49] The latter ran a law office in Bloomington with his brother, Samuel H. Buskirk, who had presided over the Democratic House of 1863; they were only the second set of brothers to serve as speakers in the history of the House.

Most of the men who presided during these years followed similar paths to the speaker's chair and each dealt with some common problems. The experience of Henry S. Cauthorn (1879) is representative. Cauthorn, one of eleven native Hoosiers to serve, was born in Vincennes on February 23, 1828. He entered politics when he ran for secretary of the Senate in 1853, shortly after graduating from DePauw University. William Clark Larrabee, a DePauw professor who was elected superintendent of public instruction in 1852, promised to plead his former student's case "with all the eloquence in my power before . . . any . . . gentlemen of the Senate whom I may meet."[50] Although Cauthorn lost the election, he learned some things about political give and take. Senator Washington L. Black promised his support if Cauthorn would in turn help a man from Carroll County become principal clerk of the House. "You know that in self defence we are compelled to play into one another's hands," the senator had written the neophyte.[51]

Cauthorn was admitted to the bar in 1853 and served as a prosecuting attorney, Vincennes city attorney, and Knox County clerk between 1854 and 1868. During these years he was also active in the Knox County Democratic party. In 1870, Cauthorn was elected to his first term in the Indiana House. As soon as the results were known, he was inundated by requests to support people for state jobs.[52] During the session the flow of correspondence continued. A constituent wrote that a road bill would make Cauthorn "many friends"; a lobbyist wanted a bill introduced for the Evansville Water Works and copies of newspapers supporting the project distributed to key legislators.[53] A non-con-

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[47] Gordon to Henry S. Lane, October 20, 1858, Lane Papers, Lilly Library, Indiana University, Bloomington.

[48] Sayre file, Legislator, IHSL.

[49] *House Journal*, 1869 (s.s.), 13.

[50] Larrabee to Cauthorn, December 6, 1852, in Cauthorn-Stout Collection, IHSL.

[51] Black to Cauthorn, December 6, 1852, *ibid.*

[52] One applicant felt it would be "superfluous to state my qualifications." Another hoped Cauthorn would not be "bored to death by office seekers." See application of William J. Dickson for state librarian, November 15, 1870; A. T. Whittlesey to Cauthorn, November 19, 1870, *ibid.*

[53] Thomas R. Cobb to Cauthorn, January 24, 1871; A. G. Van Riper to A. T. Whittlesey, February 6, 1871, *ibid.* For Cauthorn's action on the Evansville Water Works, see *House Journal*, 1871, pp. 446, 821.

stituent from Fort Wayne who was a Catholic thanked the assemblyman from Vincennes for efforts on behalf of "our Church." (Cauthorn was the only Roman Catholic to serve as speaker in the nineteenth century.) The writer blamed Cauthorn's colleagues for the difficulties a bill encountered in the House: "I had no idea there were so many bigots in your body." The measure, which involved a transfer of church property, finally passed the House.[54]

Cauthorn was reelected to the legislature in 1872 and then spent the mid-1870s building his law practice. He also labored unceasingly for the Democratic party at the county and state levels. In 1878 he ran again and won handily. "In an effort to gratify an ambition flattering to the mind of every man . . . ," Cauthorn announced for the speakership as soon as it was known that the Democrats had a majority. He carried the party caucus nearly unanimously and was elected as the first order of business.[55] Even before winning the office, however, Cauthorn enjoyed some of its special perquisites and bore some of its special burdens. The privileges of a man "much talked of for Speaker" included reduced rates at Indianapolis hotels and a railroad pass for Mrs. Cauthorn. "This courtesy will be extended as often as desired during your stay in the city," said the management of the Indianapolis and Vincennes Railroad Company.[56] The pre-session burdens included processing hundreds of requests for jobs. The directorship of the state prison was the most sought after, but many were willing to settle for any position "suitable to my ability."[57]

When Cauthorn accepted the gavel, he pledged to conduct business in a manner satisfactory to the members and honorable to himself. "I do not imagine or claim that I am the master of this House, but freely acknowledge I am only its servant," he said. He added that since "all the work of legislation is planned and carved out" in committee rooms, he intended to frame committees according to the interests of members.[58] Cauthorn was immediately deluged with requests. Exum Saint, Jr., wanted a place on the judiciary committee—"thus far Henry County has had nothing."[59] Elihu Reichelderfer wanted the military committee; Isaac M. Compton railroads and judiciary.[60] In these instances the member received the requested appointment.[61]

As the session progressed, the subject matter of the speaker's correspondence changed. In addition to the usual letters for and against proposed bills, Cauthorn kept in touch with his family and business associates. Needy relatives also abounded.

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[54] J. H. Luers to Cauthorn, February 15, 1871, in Cauthorn-Stout Collection, IHSL.

[55] *House Journal*, 1879, p. 7.

[56] Letters from Grand Hotel and Illinois House, both December 16, 1878, and E. W. McKenna to Cauthorn, January 17, 1879, in Cauthorn-Stout Collection, IHSL. There are thirty-two railroad passes issued to Cauthorn between 1871 and 1882 in this collection.

[57] For typical requests, see David G. Vawter to Cauthorn, December 14, 1878, and C. H. McCarty to same, January 7, 1879, *ibid.*

[58] *House Journal*, 1879, pp. 8-9.

[59] Saint to Cauthorn, January 10, 1879, in Cauthorn-Stout Collection, IHSL.

[60] Isaac D. G. Nelson to "Dear General," January 11, 1879, and Francis M. Mousset to Cauthorn, January 14, 1879, *ibid.*

[61] *House Journal*, 1879, pp. 58-59.

One cousin pleaded unsuccessfully to be named watchman at the State Library; he finally was willing to settle for any position in any state institution. Another cousin wanted the speaker's help to prevent the city of Logansport from annexing some family property.[62] There also were frequent requests from members for a leave of absence. For example, John D. Thayer, a Republican from Kosciusko County, had to return to Warsaw because of "important business" with the city council.[63]

By session's end, Cauthorn could truthfully assert that he had kept his pledge to "do all in my power to make the present session of this House pleasant and agreeable to each member thereof . . . ." Business was conducted with dispatch; reasonable harmony prevailed; and an important reform—passage of a constitutional amendment changing state elections from October to November—was passed. Cauthorn served one more term in the legislature in 1881, when the minority Democrats nominated him again for speaker, but Republican William M. Ridpath was elected.[64] Cauthorn then returned to his law practice, served as a presidential elector for Grover Cleveland in 1884, and never sought elective office again.

Senate Leadership

The lieutenant governor had considerably less power as presiding officer of the Senate than his counterpart in the House. When he belonged to a different political party than the majority, the Senate selected its own committees and divested its president of all but his constitutional authority. According to the Constitution (Article 5, section 21), the lieutenant governor had the right to join in debate and to vote during deliberations of the committee of the whole; and he had the duty, whenever the Senate was divided equally, to give the casting vote.[65] Judging from the almost unbroken practice of lieutenant governors between 1851 and 1889, however, the language of the Constitution was directory but not mandatory. The lieutenant governor did not vote on passage of a bill or on the adoption of a constitutional amendment—at least there is no such vote recorded during the twenty sessions that convened during the era. He might vote on the adoption of any other proposition, but he was not obliged to do so. In addition, lieutenant governors rarely spoke other than at the beginning and ending of sessions and, when they did, the privilege was based more on the courtesy of the senators than on any warrant in the Constitution or in parliamentary procedure.[66]

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[62] T. A. Rush to Cauthorn, January 19, February 4, March 3, 21, 1879; Mary Fitch to "My Dear Cousin," January 8, 1879, in Cauthorn-Stout Collection, IHSL.

[63] Thayer to Cauthorn, March 17, 1879, *ibid.*

[64] *House Journal*, 1879, p. 11; *ibid.*, 1881, pp. 7-8.

[65] Kettleborough, *Constitution Making in Indiana*, 1:333.

[66] "Tie-Votes in the Senate of the State of Indiana," compiled by Indiana Bureau of Legislative Information, December, 1916, typescript in Indiana Division, ISL. This compilation includes a list of propositions on which the lieutenant governors actually voted in case of a tie; and tables giving the number of tie votes by session, the actual tie votes on bills by session, and the character of all tie vote propositions. The tables include whether the lieutenant governor voted and how, the disposition of the measure as set forth in the *Senate Journal*, and page references.

Although the lieutenant governors exercised little leadership, the office of president *pro tempore* remained largely ceremonial until the late 1880s. (See Appendix A, Table 2.) Only when different parties controlled the Senate and the lieutenant governorship did the *pro tempore* have real power. Republican John R. Cravens (1861) and Democrat Paris C. Dunning (1863) were the first presidents *pro tempore* under the second Constitution to name committees and preside for great lengths of time. These two exercised leadership because the office of lieutenant governor was vacant during the Civil War. The bitter conflict between Democrats and Republican Lieutenant Governor Will E. Cumback in 1871 furthered the idea that power in the Senate resided with the majority, not with the lieutenant governor.[67] This trend culminated in 1873 with Republican George W. Friedley: "Where his [Friedley's] party was to be politically benefited, his rulings were unscrupulous and monstrous," said a member of the Democratic minority, "but otherwise he was eminently satisfactory to the members . . . ."[68]

The fact that the Senate allowed the post to remain vacant during four of the five sessions between 1875 and 1883 indicated nonetheless that a president *pro tempore* was not absolutely essential. This changed in 1887 when Alonzo Green Smith established a near dictatorship rather than allow a Republican lieutenant governor to preside. Green Smith's success established the power inherent in the office more forcefully than any rule could have done. One result was that every session of the Indiana Senate since 1887 has elected a president *pro tempore* as its first order of business.[69]

Other Officers, Rules, and State Printing

Doorkeepers and clerks were elected immediately after the speaker in the House; secretaries and doorkeepers were generally elected before the president *pro tempore* in the Senate. Since these were major offices, prestigious as well as lucrative, hundreds of hopefuls vied for the honors at each session. By the 1870s, when members' per diem was $6 to $8, clerks, secretaries, and doorkeepers earned $5 per day.[70] The process of electing these officers could be time consuming: in 1881 the Senate took three days and twenty-one ballots to elect a secretary.[71]

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[67] For the powers exercised by Dunning, see above, p. 192; for the conflict with Cumback, see above, pp. 214-15.

[68] Sketch by Major Robert Slater, in Friedley file, Legislator, IHSL.

[69] For the work of Green Smith as president *pro tempore*, see above, pp. 204-7.

[70] Members' per diem was $3 from 1838 to 1872, when it was raised to $8. In 1875 the amount was lowered to $6, where it remained until 1927. The 1872 act also set the mileage allowance at $5 for each twenty-five miles, round trip. *Laws* (revised), 1852, 1:306; *ibid.*, 1872 (s.s.), 31-32; *ibid.*, 1875 (s.s.), 52. For the wages of officers, see *House Journal*, 1873, pp. 188-89.

[71] *Senate Journal*, 1881, pp. 6-39. At this session the Senate numbered twenty-five Democrats, twenty-four Republicans, and one Greenbacker. There were frequent complaints about the time these elections consumed, plus the bargaining and wheeling and dealing that accompanied them. For a typical example, see Indianapolis *News*, January 5, 1877. It is certain that few officers were elected as easily as Richard H. Litson in 1861. Litson jumped aboard a train in Madison "with but a moment's reflection," traveled to Indianapolis, and a few hours after his arrival he was elected a Senate first assistant doorkeeper. Litson file, Legislator, IHSL.

After the Civil War numerous "employees" were added to the payroll. Many of these were hired for additional security. The respective chambers were ordinarily secured by doorkeepers during sessions and if feelings became especially heated extra doorkeepers were hired. In 1872 petty thievery became so troublesome the state librarian was instructed to see that secure locks were placed on the desks of senators; soon security became a round-the-clock concern.[72] The more serious incidents included pilfering a Senate bill from House files before it was acted upon and the disappearance of expensive copies of revised statutes.[73] By the 1880s, special guards maintained watch at night and extra cloakroom attendants were necessary to protect hats, coats, and umbrellas.[74]

Newspapers complained frequently that extra employees added substantially to the costs of sessions. In 1873 the politically independent Indianapolis *News* counted forty-five special employees in the House and sixty-two in the Senate. They included pages—boys whose parents had "influence"—who earned up to $3 a day.[75] The extra employees also included Mrs. C. S. McDonald, hired as an engrossing clerk in 1871 and probably the first woman employee.[76] The additions in 1872 included a "Spittoon Cleaner—John Abrams (colored)."[77] The legislature frequently favored Civil War veterans for lesser positions: in 1883 the House resolved to give preference to soldiers who had lost limbs; in 1889 both houses resolved to permit "an old Union soldier" to sell cigars and tobacco in the State House.[78] At least one famous political career was launched from a lesser position. At the 1887 session Albert J. Beveridge, fresh out of DePauw University, was hired as a reading clerk by the House.[79] Twelve years later, the General Assembly elected Beveridge to the United States Senate.

The rules governing the legislative process during the 1850s remained essentially unchanged from the pioneer period.[80] The Civil War occasioned the first major procedural changes as the House added eight rules and nine standing committees; in the Senate only one rule was added but the number of committees increased from sixteen to twenty-eight. Many new committees, such as federal relations, public expenditures, and rights and privileges of the inhabitants of the state, were related to the war. By 1889 House procedures had expanded to

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[72] *Senate Journal*, 1872 (s.s.), 34.

[73] *Ibid.*, 1875, p. 902; *House Journal*, 1875, p. 1293; *ibid.*, 1885 (s.s.), 1535.

[74] *Senate Journal*, 1873, pp. 123, 333-34; *House Journal*, 1881, p. 131; *ibid.*, 1881 (s.s.), 963.

[75] Indianapolis *News*, January 6, 8, 1873. Four years later this newspaper complained again about the "outrageous" action of the Senate in paying pages $2.50 a day. *Ibid.*, March 3, 1877.

[76] *Brevier*, 1871, p. 97.

[77] *Senate Journal*, 1872 (s.s.), 70. Blacks were apparently paid less than other employees. In 1887 the Senate resolved that two "colored" employees be paid at the "regular" rate of $5 instead of $2.50. *Ibid.*, 1887, p. 937.

[78] *House Journal*, 1883, p. 14; *Senate Journal*, 1889, p. 12.

[79] *House Journal*, 1887, p. 911.

[80] For the evolution of rules during the pioneer period, see above, pp. 91-93.

seventy-six rules and forty-two standing committees; the Senate's to sixty-four rules and thirty-five committees.[81]

Most procedural changes reflected conflicts of the period and an attempt to ensure order and decorum. For example, House rule 14 stipulated that an absent member might be required to pay the expenses of a messenger sent to summon him. Rule 67 allowed the speaker to return any petition which he judged to be offensive to the assembly or constituted authority.[82] A major change in the Senate, added after the fiasco of 1887, provided that the secretary should take matters in hand upon the call of any two senators if a president *pro tempore* was obstructing proceedings. Another Senate change, reflecting the recurring importance of contested elections, declared that reports from the committee on elections must be acted upon immediately.[83]

The standing committees by 1889 also reflected some fundamental changes in Hoosier society. Gone was the committee on canals and internal improvements; added were committees on temperance and on women's claims. The new committees also showed an effort to deal with some of the problems posed by industrialization: there were committees on corporations; on insurance; on railroads; on mines, mining, and manufacturing; and on natural gas. There also were committees to gather labor and health statistics and a committee on cities.[84] In short, lawmakers were aware by the end of the era that the legislative process would function more efficiently if rules were more specific and committees were arranged to plan legislation according to changing needs.

The contract to print official documents of state government remained one of the most lucrative prizes tendered at each session. By midcentury the contract rotated between the party organs in Indianapolis on the sole basis of who had a majority in the legislature. In this fashion, every General Assembly from 1851 through 1881 designated either the Indianapolis *State Sentinel* or the Indianapolis *Journal* as state printers, usually amidst minority complaints of partisan bias.[85] The wrangling over printing became so intense—especially when control of the two houses was split—that legislators finally decided to remove the issue from politics. At the 1883 session, in an act of statesmanship almost without precedent, lawmakers awarded the contract to the nonpartisan job printing office of William B. Burford. Except for printing the *Laws* in 1917, 1920, and 1921, the contract was renewed each biennium for more than forty years as the Burford Company did all printing incident to legislative sessions until 1927. Burford was scrupulously

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[81] House rules are extant for the sessions of 1851-52, 1858, 1861, 1863, 1865, 1869, 1871, 1881, 1887, and 1889; Senate rules for 1851-52, 1863, 1867, 1869, 1871, 1879, 1881, 1887, and 1889. *Standing Rules and Orders . . . Senate* (Indianapolis, 1851-1889); *Standing Rules and Orders . . . House of Representatives* (Indianapolis, 1851-1889), all in Indiana Division, ISL.

[82] *Standing Rules . . . House* (1889), 19, 30.

[83] *Standing Rules . . . Senate* (1889), 12, 14-15.

[84] For the standing committees in the Senate as of 1889, *ibid.*, 13-14.

[85] Until 1873 the contract was let in the surname of the publishers. From 1873 to 1881 it was let in the corporate name of either "the Sentinel Company" or "the Indianapolis Journal Company." For the official designations given state printers, see John G. Rauch and Nellie C. Armstrong (comps.), *A Bibliography of the Laws of Indiana, 1788-1927* (Indianapolis, 1928).

inactive in politics. As a result, state printing came to be let on the basis of professional competence and was no longer an object of partisan division.[86]

One valuable fruit of the association between party organs and state printing was the appearance in 1858 of the *Brevier Legislative Reports.* These nearly verbatim stenographic accounts of the more important proceedings in each house were published continuously through the session of 1887 and constitute a research tool without parallel in the history of the Indiana General Assembly. They were the brainchild of Ariel E. Drapier and called Brevier after the type size used for the volumes. Drapier began newspaper work in the 1820s; in 1848-1849 he worked on the staff that inaugurated verbatim reporting of proceedings in Congress. In the 1850s he sharpened his skills as a stenographer at constitutional conventions in Ohio, Indiana, Minnesota, and Kansas. In 1858 the *State Sentinel* hired Drapier and his son, William H., to cover the General Assembly.[87]

In addition to preparing brief accounts of the daily proceedings for the *Sentinel*, the Drapiers compiled a stenographic record of the special session. Their work proved so acceptable that it was continued for thirty years. The reports were without exception thorough, nonpartisan recordings that fully justified the boast: "None in the State are so competent to make a Legislative Record as the projectors of the *Brevier Reports* because the lives of no other Indianians have been passed in such like service."[88]

In the 1870s the question of continuing the *Brevier Reports* became entangled with biennial fights over subscribing to Indianapolis newspapers for members to mail to their constituents.[89] This perquisite, begun in the 1830s, was discontinued in 1875 and never restored.[90] At the same time some lawmakers began to question the expenditure of $5,000 to $10,000 each session to record, print, and bind the *Brevier Reports*. Support also faltered because the *State Sentinel* and Indianapolis *Journal* attacked the *Brevier Reports* each time they were denied the contract for state printing.[91] Soon only abbreviated versions appeared and in 1889 the

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[86] Burford was born in Missouri and moved permanently to Indianapolis in 1870. In that year he entered the printing firm of his brother-in-law, William Braden. Burford became sole owner of the business in 1875 and built it into the largest job printing company in the city. Indianapolis *Star*, January 15, 1927; Jacob Piatt Dunn, *Greater Indianapolis* . . . (2 vols., Chicago, 1910), 2:711-13.

[87] For the life of Ariel Drapier, see James Sutherland, *Biographical Sketches of the Members of the Forty-First General Assembly of the State of Indiana* (Indianapolis, 1861), 199-201.

[88] *Brevier*, 1879 (s.s.), prospectus, following 107. In 1861 a Republican controlled Senate elected William H. Drapier recording secretary in spite of his affiliation with the Democratic *State Sentinel*. See sketch of William H., *ibid.*, 1885, at end of volume under title Brevier Legislative Directory, 93.

[89] For debates on the "newspaper question," see *ibid.*, 1871, pp. 28-29, 127-28; *ibid.*, 1873, pp. 287-90, 292-95.

[90] For the sending of newspapers to constituents during the pioneer period, see above, pp. 99-100; for the discontinuance of the practice, Indianapolis *News*, March 8, 1875. An attempt to restore the newspapers was defeated in the House in 1881 on a 73 to 6 vote; in 1887 the Senate tabled a similar motion. *House Journal*, 1881, pp. 223-24; *Senate Journal*, 1887, p. 90.

[91] For the costs of the *Brevier Reports*, Indianapolis *News*, January 12, 1875; for a typical attack on them, Indianapolis *Journal*, January 9, 1875.

General Assembly voted to discontinue the *Brevier Reports* permanently.[92]

The relationship between the General Assembly and the press was ambivalent throughout the era because politicians and newspapers needed but never quite trusted one another. Newspapers kept constant watch on lawmakers during sessions and, between sessions, on would-be lawmakers as well. Most politicians, ever hungry for publicity, courted favorable coverage. Some, like Representative Samuel W. Williams of Knox County, complained only if the papers misspelled their names.[93] As a rule, because the power of the press could make or break political careers, lawmakers extended every consideration and cordiality to reporters. Journalists enjoyed accommodations in the State House during sessions, and both houses routinely thanked the press for its coverage immediately before final adjournment.

But relations with the press could be prickly and sometimes the resolutions were amended, as in 1885, to apply only to "truly good newspapers who have at all times told the truth."[94] Individual lawmakers, of course, frequently feuded with the opposition press in their district. And sometimes, if newspapers exceeded what lawmakers felt were proper bounds of propriety, the legislature united against the press. One such instance occurred in 1871 when the Indianapolis *Journal* lambasted Speaker William G. Mack for telling a joke "too filthy to put in print" in the presence of a female clerk and 100 women petitioners. The newspaper castigated Mack for "public exhibition of bawdy house manners" and said "The disgraceful scenes that have been recently enacted in the Indiana House of Representatives deserve public condemnation."[95] Upon publication House Democrats moved to expel the *Journal* reporter from the State House; they settled for a resolution of censure that passed 83 to 9. Daniel W. Cunningham of Fountain County was the only Democratic dissenter. He explained his vote with an eloquent defense of freedom of the press: "I can not, and will not vote to censure any respectable paper for expressing what I believe it thought at the time, to be an honest, (though mistaken) opinion."[96]

The *Sentinel* faced the wrath of the House in 1873 for charging the speaker with "cowardice or something worse" when the *Journal* won the printing contract. One representative demanded that the doorkeeper arrest the offending editor and bring him to the bar for interrogation. John D. Miller (Republican, Decatur County) objected because "the Constitution does not contemplate or confer the power to punish upon this House" for actions committed outside of its presence. John T. Richardson (Democrat, Carroll County) opposed making an example of the *Sentinel*. "Many papers in the State have slandered the General Assembly in this way," said Richardson, "indeed there are few . . . that have not done so." To investigate them all would require a special session. The representatives

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[92] *Senate Journal*, 1889, pp. 1413-14.
[93] *House Journal*, 1883, p. 256.
[94] *Ibid.*, 1885, p. 1127.
[95] Indianapolis *Journal*, January 26, 1871.
[96] *House Journal*, 1871, pp. 331-34, quotation, 334.

finally settled for a simple resolution of censure which passed with bipartisan support.[97]

The Laws: Banking, Railroads, and Revenue

Whereas just over 9,000 laws were passed by the pioneer general assemblies, less than 2,700 bills became law during the first forty years under the second Constitution. In addition, 157 joint resolutions and fifty-five concurrent resolutions were passed.[98] The volume was reduced because the new Constitution prohibited local and special legislation. The change from special to general laws meant that a system that had been fragmented and piecemeal gave way to "generalized" policy based on universally applied rules. The change was felt most in the area of incorporation since the legislature was stripped of the power to create corporations by special act. Pioneer lawmakers had relied upon corporations to provide the money for roads, bridges, banks, railroads, and other essential public services. In return, corporations were endowed with special privileges, such as exclusive franchises and the right of eminent domain. The sheer mass of corporate charters, each passed separately, clogged the legislative process, encouraged logrolling and lobbying, and corrupted legislative practices. Under the new system objective norms uniformly applicable to entire classes of economic activity were established by law and the substantive content of charters was formalized for all corporations engaged in similar enterprises. Thus, corporations ceased to be the center of political debate and lost their quasi-public character. At the same time, the regulatory role of the legislature declined sharply and the relative power of the judicial and administrative components of state government rose. This reorientation of power among the branches of government profoundly influenced the General Assembly. Indeed, a major objective of the ban on special legislation was to remove the legislature from the chartering process.[99]

Under general laws the potential for uncertainty, arbitrariness, and political influence was reduced. The supervision of rules was delegated to either state administrators or local officials who were given substantial powers to oversee

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[97] *Brevier*, 1873, pp. 270-71.

[98] For a statistical breakdown by session and kind of laws and resolutions passed, see "The Passage and Taking Effect of Acts and Joint Resolutions in Indiana Under the Constitutions of 1816 and 1851," typescript compiled and edited by the Indiana Legislative Bureau, July, 1935, Table II, 18j to 18k, in Indiana Division, ISL. There is no real difference between a bill and a joint resolution. Like a bill, a joint resolution requires the approval of both houses and the governor's signature. Joint resolutions are generally used in dealing with limited matters, such as a single appropriation for a specific purpose. Concurrent resolutions, on the other hand, must be passed by both houses but do not require the governor's signature and do not have the force of law. They generally are used to make or amend rules applicable to both houses, or to express the sentiment of both houses. For an example, see concurrent resolution instructing senators and representatives in Washington to support federal regulation of railroads. *Brevier*, 1879, pp. 35-36.

[99] For the origins of corporations and their relationship to state legislatures, see Edwin M. Dodd, *American Business Corporations Until 1860* . . . (Cambridge, Mass., 1954), and Oscar and Mary Handlin, "Origins of the American Business Corporation," *Journal of Economic History*, 5 (1945), 1-23.

corporate activities. For example, auditors of state were given investigative and regulatory powers over banking and insurance companies. County supervisors played a major role in exercising the power of eminent domain in cases of railroads and plank roads. The twin goals of political neutrality and uniformity in administration also enhanced the power of courts as the judiciary replaced the legislature as the principal interpreter of corporate law.

Banking, the means whereby society attempted to provide for a stable financial system, was intimately associated with state legislatures during the first half of the nineteenth century. The Indiana legislatures monopolized banking under both the first and second state banks. New York's Free Banking Act of 1838 marked the beginning of a profound change. With that act, New York opened banking to all comers, established rules for its conduct, and delegated authority for the implementation of those rules to administrative officials.[100] The major features of the New York law were adopted in several other states by midcentury. Indiana followed New York's example in the 1850s and its banking laws became prototypes for all corporate legislation.

Lawmakers at the long session of 1851-1852 were the first to cope with the need for general laws. Representative Samuel T. Wells of Jackson County spoke for the majority: "That provision which provides against special and local Legislation we find to be one of our best safeguards for the people." Wells pointed to banks and railroads as "undoubtedly great blessings . . . when they have the proper restrictions thrown around them." Without restrictions, however, "their power is invincible." Fortunately, Wells concluded, the legislature could now enact general laws under which all banks and railroads must organize and none would have "exclusive privileges."[101]

The General Assembly turned to banking first because the charter of the Second State Bank was due to expire. Proponents of "free banking"—*i.e.*, numerous banks competing with one another under a general law instead of a single institution enjoying a monopoly—carried the day initially. The law of 1852 required banks to have a capitalization of not less than $50,000. They must deposit securities with the auditor of state and keep specie on reserve equal to at least 12.5 per cent of their notes. Failure to redeem in specie at any time would lead to the immediate closing of a bank.[102] But the banks which came into existence proved far from stable and secure. Their number proliferated and caused an unrestricted expansion of currency. By 1855, with rapid depreciation of the value of their notes and frequent bank suspensions, "farmers and workers suffered."[103] Nevertheless, the system of free banking was retained in Indiana

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[100] For the importance of the Free Banking Act and its impact on other states, see L. Ray Gunn, "Political Implications of General Incorporation Laws in New York to 1860," *Mid-America*, 59 (1977), 171-91.

[101] Wells to Samuel W. Durham, February 1, 1852, in Mary Durham Papers, Indiana Division, ISL.

[102] *Laws* (revised), 1852, 1:152-61.

[103] For the history of banking under the act, see Emma Lou Thornbrough, *Indiana in the Civil War Era, 1850-1880* (Indianapolis, 1965), 428-31, quotation, 430; Logan Esarey, *State Banking in Indiana, 1814-1873* (Bloomington, Ind., 1912), 279-87.

until superseded by the national banking system after the Civil War.

The principal investors in the Second State Bank wielded enough influence at the Constitutional Convention that the document of 1851 allowed the General Assembly to charter "a bank with branches" despite the ban on special legislation. This enabled the investors to seek a new charter when the Second Bank's charter expired. Lawmakers obliged in 1855 by passing a new State Bank bill that historian Logan Esarey said established a system "entirely distinct" from free banking. Esarey added that the bill also led to "one of the most noted legislative scandals in the state's history" because numerous assemblymen had accepted shares of stock in return for their votes.[104] The bill passed over a veto by Governor Joseph A. Wright who felt it would create "a moneyed monopoly as odious and frightful as any of which the history of American legislation furnishes an example . . . ."[105] Most of the stock of the new bank came into the possession of stockholders of the old State Bank. In his farewell message to the legislature that year, outgoing Governor Wright said "The means . . . brought to bear to secure the passage of this charter, would, if exposed to the public gaze, exhibit the darkest page of fraud and corruption that ever disgraced the legislature of any State." The Senate banking committee confirmed that there were unsavory circumstances involved in the bill's passage but no action was taken against any of the participants. A move to repeal the bank's charter was indefinitely postponed.[106] A second attempt at repeal was tabled in 1859 because most legislators agreed with Senator David Turner of Lake County: "Were it repealed . . . another bank bill would be introduced, and the same corrupt influences brought to bear upon it, and probably successfully."[107] Despite its questionable origins, the Bank of the State of Indiana operated honestly and efficiently until its demise after the Civil War.[108]

The federal government superseded the states with respect to banking when the National Banking Act passed in 1863. The act imposed a tax on state bank notes, in effect driving them out of circulation. Most branches of the Bank of the State of Indiana became part of the national system immediately and the number of national banks in the state increased steadily in the postwar era.[109] Subsequent banking legislation was always of a general nature with regulatory power vested in the auditor of state. For example, an act in 1869 provided for the organization of savings banks and empowered the auditor to examine such banks biennially. Insolvent concerns were to be closed.[110] An act in 1873 provided

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[104] Esarey, *State Banking in Indiana*, 288-96, quotations, 289.

[105] *House Journal*, 1855, pp. 761-64, 836-39; *Senate Journal*, 1855, pp. 452-68, 528, 538-40, 562-68, 686, 713-17, quotation, 714; *Laws*, 1855, pp. 229-51.

[106] For Wright statement, *House Journal*, 1857, p. 23; for the circumstances of passage, *Journal of the Bank Investigating Committee . . . 1857* (Indianapolis, 1857), *passim*; for indefinite postponement of repeal, *Senate Journal*, 1857, pp. 744-46.

[107] *Brevier*, 1859, pp. 123-25, 130-32, 147-49, quotation, 149.

[108] Thornbrough, *Indiana in the Civil War Era*, 426-28.

[109] For the impact of the National Banking Act, *ibid.*, 431-35.

[110] *Laws*, 1869 (s.s.), 104-16.

for the establishment of banks of discount and deposit, with each bank required to submit not less than five reports annually to the auditor. With the approval of the governor, the auditor could also appoint state examiners to investigate such banks as often as necessary.[111] In this fashion, control over banking in Indiana passed from the legislature to the federal government and/or state administrative officers.

The legislature of 1851-1852 also passed a general act for railroads. Under the measure any group of fifteen or more persons with specified amounts of capital could incorporate. Such companies were also allowed to sell stock, receive donations, and borrow money by selling bonds and mortgaging their property.[112] Under this general law Indiana railroads grew from less than 200 miles of track in 1850 to more than 5,000 miles by 1890. Until the Civil War legislation affecting railroad companies was second in importance only to banks; after 1865 railroad companies dominated deliberations regarding corporate law. Their role in the state's development was foretold eloquently when James T. Maxfield (Elkhart County) reported for the House committee on corporations in 1853:

> Indiana from her position, as midway between the great west and the Atlantic seaboard, and from her own necessities in developing her gigantic resources, will in a short time be traversed with railroads in every direction. She will emphatically become girt with iron, and the portage over which the productions of the yet undeveloped west will seek a market.

While the potential of railroads for good was great, said Maxfield, so too was their potential for evil. Only the General Assembly could protect the public against the dangers of a corporate monopoly, he concluded. The necessary safeguards would best be accomplished through rigorous regulation under a general law of incorporation.[113]

Under the terms of the general act of 1852 hundreds of railroad companies were incorporated by 1890. As early as the late 1850s the rail lobby was one of the most persistent and effective at the State House. The lobby's power was shown in 1859 when the Senate proposed to make railroads liable for animals killed in areas where the lines could not be fenced. In its final form the bill screened the lines from liability, a result that was inevitable, according to the minority, and "obvious to any candid sane mind."[114] Most proposals for effective regulation met a similar fate. Thus, a House bill of 1871 providing for state regulation of passes, fares, and tariff rates failed to become law.[115] In 1872 the House failed to act on a Senate bill that outlawed extortionate and unjust charges.[116] An act that passed in 1885 was typical of legislation approved by

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[111] *Ibid.*, 1873, pp. 21-27. For a brief summary of bank legislation, see "Bank Laws of Indiana, 1852-1911," typescript compiled by Indiana Legislative Reference Bureau, Indianapolis, 1923, in Indiana Division, ISL.

[112] Thornbrough, *Indiana in the Civil War Era*, 326.

[113] *House Journal*, 1853, pp. 419-21, quotation, 420.

[114] *Senate Journal*, 1859, p. 369.

[115] *House Journal*, 1871, pp. 158-59, 390.

[116] *Senate Journal*, 1872 (s.s.), 334-35; *House Journal*, 1872 (s.s.), 566.

the railroad lobby: it allowed the companies to build union stations and prevent competitors from using them.[117]

One reason railroads controlled lawmakers to a much greater degree than lawmakers controlled railroads was the peculiar fascination many had for the iron horse. In the words of one lawmaker "the whole world is getting in a hurry" and railroads constituted the "only rapid means of conveyance." Railroads were "cheap," "quickly constructed," and "alive with people."[118] They also made journeys to and from the capital city more comfortable, more convenient, and more frequent than ever before possible.

The companies capitalized by offering free passes during sessions. As early as 1861 members without a rail connection to Indianapolis complained that weekend adjournments were made only "to give gentlemen living on the railroads a chance to go home."[119] After the lines spread to the four corners of the state practically every member regarded his pass as a perquisite of office. The result, as Senator Abel D. Streight suggested in 1879, was that the railroads usually got what they wanted from the General Assembly while "nearly every measure the people have asked for to protect themselves from oppression by the railroads have been denied." Streight, who lived in Indianapolis and thus normally had no need for a pass, moved that no money be appropriated to pay the mileage of members who had passes. Streight's amendment was rejected 33 to 14 on grounds that it was "a kind of insinuation against members, and might bring about a kind of inquisition to find out who had passes."[120]

The power to influence legislators through free transportation was baldly illustrated in 1887 when the Knights of Labor and 316 citizens of Floyd County protested giving railroads the right to condemn private property. Immediately after the protests were presented, Speaker Warren G. Sayre announced that the Vandalia Railroad Company was providing a car to take legislators and their families to the funeral of Mrs. Daniel W. Voorhees in Terre Haute.[121] Subsequently, at the 1889 session, the legislature extended the power of railroads to condemn real estate. The act provided that any railroad company organized under the laws of Indiana before the general railroad act of 1852 was given authority to condemn real estate.[122] The record of the legislature suggested that Senator Streight was right in saying the people were left unprotected against the railroad companies. Despite petitions from the Grange and warnings such as one by the Republican state organ that "The interests of the railroads must be subordinate to those of the people or the time may come when our liberties as well as our

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[117] *House Journal*, 1885, p. 953.

[118] Letter from Isaac D. G. Nelson, in Fort Wayne *Sentinel*, January 17, 1852.

[119] *Brevier*, 1861, p. 73.

[120] For quotations, *Brevier*, 1879, p. 36; for defeat of amendment, *Senate Journal*, 1879, p. 78.

[121] *House Journal*, 1887, pp. 235, 274.

[122] *Laws*, 1889, pp. 352-53. Railroads formed under the 1852 act already had the power to condemn real estate.

pockets will be at the mercy of their resistless combinations," not a single regulatory law of consequence passed.[123]

If banking and railroad laws affected more citizens than most other legislation, revenue laws constituted the one inescapable contact with state government because they affected everyone. Also, because the General Assembly failed to achieve uniformity and equality in taxation, revenue measures soured more citizens on the legislature than any other single factor.

The general tax law of 1852 was built upon the measures passed during the last sessions under the first Constitution.[124] It assessed polls and property and imposed a specific tax on State Bank stock and other property of a similar nature. The rate was to be fixed from session to session by the legislature with the amount charged for county purposes left to the annual consideration of boards of county commissioners. The law defined real property as land and "all buildings, structures and implements, trees, and other fixtures . . . thereon" (including stoves used instead of fireplaces). Personal property was defined as all household furniture, goods, chattels, money on hand or on deposit, all monies at interest, and all public stocks in corporations whether within or without the state.[125] A second act of 1852 made the auditor of state the chief financial officer and general supervisor of assessments and collections.[126]

The greatest weakness in the law was a provision for three classes of boards for equalizing real property appraisals: a local board consisting of the auditor, assessors, and board of commissioners of each county; a district board consisting of the auditors in the several counties embracing each congressional district; and a State Board of Equalization consisting of delegates elected by the district boards from their own members, plus the auditor of state who was president.[127] Persistent criticism of the system fastened on the lack of consistency in the assessments from county to county. The annual reports of state auditors were replete with charges that the law was "crude in design, imperfect in detail, and totally inadequate in execution . . . ."[128] The district boards were especially castigated in 1872: "Their history is a story of wrong, unjust, and generally illegal, action, and it is a lamentable truth that the success of the State Board . . . has been but little better."[129]

These criticisms led the General Assembly to revise the tax system in 1872. Under the revision township assessors made the original assessments of real property, subject to review by county boards. Township assessors and county boards also assessed personal property at "fair" cash value, but since they put various interpretations upon the meaning of "fair," no uniformity or equality

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[123] Indianapolis *Indiana Journal*, November 23, 1872. For the failure to pass regulatory laws, Thornbrough, *Indiana in the Civil War Era*, 359-60.

[124] See above, pp. 104-5.

[125] *Laws* (revised), 1852, 1:105-46.

[126] *Ibid.*, 146-50.

[127] *Ibid.*, 273-76.

[128] *Documentary Journal*, 1866, Part 1, no. 3, p. 26.

[129] *Ibid.*, 1872, no. 2, p. 45.

in taxation was achieved. In fact, a large proportion of personal property escaped taxation altogether, throwing a greater burden upon real estate.[130] The new law also abolished the district boards and made the State Board of Equalization an ex officio body consisting of the governor, lieutenant governor, secretary, auditor, and treasurer of state. The state board was to equalize the assessments of real property biennially and assess the capital stock of all companies incorporated under state law annually.[131] The additional revenue obtained from biennial assessments did not justify the labor and expense involved, however, so in 1875 the assessment period was extended to every five years, in 1881 to every six years.[132]

The constitutional mandate that all revenue bills must originate in the House of Representatives helped explain the shortcomings of tax laws. Freshmen constituted the overwhelming majority at each session, which meant most members were inexperienced in legislative procedures and unversed in the mysteries of state finance.[133] Each house met for 60 to 100 days every biennium; then for nearly two years between sessions the chamber was usually empty. At each session, a new majority, equally inexperienced and unversed, held sway. There was no continuity with past policies because there was no permanent staff to serve lawmakers during interims. The instability caused by constantly changing membership and the lack of continuity was nowhere felt so severely as in the complex field of taxation. Improvement in the vital area of revenue and taxation came with a new tax law in 1891 which William A. Rawles described as "the soundest tax measure Indiana has ever known."[134] Further improvement awaited the development of more sophisticated legislative operations, such as a permanent legislative reference staff and interim study groups. These did not come until the early years of the twentieth century.

Code Revisions, State Institutions, and Community Mores

The time consuming task of revising the state code was undertaken but twice between 1850 and 1969: first at the long session of 1851-1852 and again in 1881. Strictly speaking, the first instance was not a revision of former laws but rather new enactments upon the same and other subjects.[135] The work was

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[130] *Laws*, 1872 (s.s.), 57-129. See also William A. Rawles, *Centralizing Tendencies in the Administration of Indiana* (New York, 1903), 267-69.

[131] *Laws*, 1872 (s.s.), 57-129.

[132] *Ibid.*, 1875, p. 142; *ibid.* (revised), 1881, pp. 1379-80. The most thorough treatment of Indiana tax law in the nineteenth century is Rawles, *Centralizing Tendencies in the Administration of Indiana*, 246-304.

[133] The number of freshmen representatives ranged from a low of sixty-one at the sessions of 1885 and 1889 to a high of eighty-seven in 1875. For a breakdown per session, see Appendix A, Table 5.

[134] Rawles, *Centralizing Tendencies in the Administration of Indiana*, 276.

[135] See general repealing clause, *Laws* (revised), 1852, 1:430-31. All laws not reenacted at the session were effectively repealed except those that were specifically exempt. See also report of judiciary committee, *House Journal*, 1855, p. 72.

carried out along with the implementation of the new Constitution and resulted in many conflicts, contradictions, inaccuracies, and omissions. "An accurate revision . . . at one session . . . could not reasonably have been anticipated," admitted Governor Joseph A. Wright as he spoke to the 1853 session.[136] A House committee subsequently found several glaring defects in the revision. For example, the act concerning the School for the Blind did not provide for the election of trustees and the repealing act had swept away all the old provisions on the subject. An act concerning navigable streams ignored the contingency where boards of commissioners from contiguous counties refused to agree on a stream's navigability.[137] Such defects were corrected piecemeal as lawmakers did not attempt a wholesale revision for almost thirty years. There were demands in the press for revision during every session, but the closest the legislature came to acting was a House resolution in 1875 instructing the governor to appoint five commissioners and grant them a copyright on their work. They could then be compensated from the sale of the revised laws.[138] This proposal went no further.

In 1879 the legislature empowered the governor to appoint a three-man commission to prepare a revised code. Democrats David Turpie and John H. Stotsenberg and Republican James S. Frazer were named and they began work in April. Each was a lawyer with previous experience in the General Assembly. Frazer, who served as president of the commission, had served under both constitutions and also had been a judge on the state Supreme Court from 1865 to 1871. Most of Stotsenberg's public service had been in local government and he served as the expert in this area. This Board of Revision, as it was called, submitted a report to the 1881 regular session which divided the laws into five sections, each arranged alphabetically, for easy consideration of the lawmakers.[139] The revision was one of the most carefully prepared compilations of statutory law yet attempted. Although the regular session did not act on the revision, the special session of 1881 enacted a law providing for the compilation and publication in one volume of all "the general statutes passed by the General Assembly, which are in force and of practical application." The subsequent *Revised Statutes of 1881* was never enacted by the General Assembly, however, so it was only an unenacted compilation sanctioned by the state and not a definitive source of statutory law.[140] No further revision was effected by the General Assembly for nearly ninety years.

James S. Frazer was remembered more as the "originator . . . of the free school system" than as a revisor of the state code because he chaired the House

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[136] *House Journal*, 1853, pp. 26-27. Wright specified that corrections were necessary in the manner of electing presidential electors, in the law concerning the competency of Indians and Negroes to testify, and in the criminal code.

[137] *Ibid.*, 205-7.

[138] *Ibid.*, 1875 (s.s.), 1459. For an example of a press demand for code revision, see Indianapolis *Indiana Journal*, February 13, 1877.

[139] *House Journal*, 1881, pp. 117-22.

[140] Indiana Legislative Council (comps. and eds.), "History of Official Indiana Statutes," *Indiana Code* (8 vols., Indianapolis, 1982), 1:xxiii.

education committee in 1855.[141] The 1855 session acted on a bill presented by Frazer's committee after the state Supreme Court had declared portions of the school law of 1852 unconstitutional. The 1852 act made free schools mandatory in every township and consolidated the Congressional Township Fund into the general school fund. In 1854 the court declared that portion of the law diverting the Congressional Township Fund unconstitutional: "The supervision exercised by the legislature over the township fund . . . extends only to protecting and administering, not diverting, the fund."[142] In 1855 Frazer reported a bill that provided for the consolidation of all the other funds, but set the township funds aside as a separate fund, the income of which was to be exclusively devoted to the support of schools in the respective townships from which the fund was derived. Although the bill required an equalization of revenues by making an unequal distribution of the common school monies, it met the court's objections.[143] Frazer's mode of equalizing the revenues to the townships prevailed for the balance of the nineteenth century.

Free schools were supported by both parties at every session, often in the face of bitter public opposition. For example, one constituent complained to a senator in 1853 about being taxed to educate "little raggamuffins [*sic*] . . . to *cuss* me in Greek and Latin and I never know what they were saying."[144] A taxpayer in 1869 said that a bill seeking increased taxes for schools was "a joint production of a 'ring' of aspiring teachers and superintendents, who imagine they are not well enough paid by the present rate of taxation for school purposes." The bill, said this correspondent, should be "well probed before it is made a law, to see if there is not rottenness in it."[145] Despite the frequency of such attacks, no serious challenge to free schools arose.[146]

A protracted and heated debate was touched off in 1873, however, when Representative William W. Butterworth (Republican, St. Joseph County) introduced a bill to compel attendance. "The State has a right to do it for its own sake—the good of society," said Butterworth. Opponents argued that it was unwise to take education out of the hands of parents and that there were not enough "competent teachers" to support compulsion.[147] For the next quarter century, compulsory education dominated legislative discussions regarding the common schools. The Republican party generally supported forced attendance,

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[141] Frazer file, Legislator, IHSL.

[142] *Laws* (revised), 1852, 1:435-57; *The State of Indiana and Others* v. *Springfield Township in Franklin County*, 6 Ind. 83-100, quotation, 96.

[143] *Laws*, 1855, pp. 174-76; *Quick and Others* v. *Springfield Township*, 7 Ind. 636-41. See also Richard G. Boone, *A History of Education in Indiana* (New York, 1892; reprinted, Indianapolis, 1941), 152. Boone stated that the court held the bill "conforms to the spirit of the Constitution" and "does not conflict with any act of Congress."

[144] John H. Sullivan file, Legislator, IHSL.

[145] Indianapolis *Indiana Journal*, January 22, 1869.

[146] For the development of the common schools, with citations to the *Laws* and *Journals*, see Rawles, *Centralizing Tendencies in the Administration of Indiana*, 26-141. See also Boone, *History of Education in Indiana*.

[147] *Brevier*, 1873, pp. 470-79, Butterworth's statement, 470.

with Democrats generally opposed. There was an undercurrent of sentiment against parochial schools with Roman Catholics always opposed to compulsion regardless of their party affiliation. For example, when Republicans argued emotionally in 1881 on behalf of children condemned to "wander up and down the earth, homeless, helpless and despised" because they were not educated, Catholics led a fight against invading "the family circle." Former Speaker Henry S. Cauthorn said "I am opposed to the Legislature saying what a man shall eat, drink, or what trade he shall pursue. It is beyond the objects of legislation." Republican Thomas McSheehy, a Catholic like Cauthorn, was wary of giving county trustees the power to enforce school attendance. He said a bill giving trustees such power "strikes at the fundamental principles of our government." McSheehy concluded that "It is a well known fact our Trustees are not the most intelligent class of people, and they will exercise this power as they think best, and oftentimes unwisely."[148] Not until 1897 did the General Assembly finally pass a compulsory attendance law.[149]

The legislature seemed more willing to support common schools than colleges and universities. The *Indiana Journal* observed in 1855 that Indiana University was "languishing, and without assistance in some shape, cannot maintain its present honorable eminence." Although in this instance the university languished while the General Assembly was preoccupied with the election of a United States senator, throughout the era the appropriation for the school was usually perfunctory, always paltry, and never passed without some objection.[150] For example, in 1879 Senator Gustavus V. Menzies questioned whether even one dollar should be appropriated for higher education. "These precedents are being established at almost every General Assembly," said Menzies, "and there will be no end to this thing."[151] Although there were always financial objections, the institution at Bloomington was rarely an object of special attention. It became such in 1859, however, when Speaker Jonathan W. Gordon moved to admit females. Their education was "of equal, if not of greater importance" to that of men, said Gordon, and nothing in the original land grant or state Constitution barred them. Gordon's resolution was adopted by a vote of 49 to 20 but went no further and the admission of coeds was delayed until 1867.[152] The only other times when Indiana University received special attention were in conjunction with the Normal School at Terre Haute or the Agricultural College at Lafayette.

Despite the wariness with which legislators viewed higher education, a teachers college and Purdue University were established by legislative action. The

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[148] *Ibid.*, 1881, Republican arguments and Cauthorn's response, 148-50; *ibid.*, 1881 (s.s.), McSheehy remarks, 102.

[149] *Laws*, 1897, pp. 248-50.

[150] Indianapolis *Indiana Journal*, January 14, 1855. See also Thomas D. Clark, *Indiana University, Midwestern Pioneer* (4 vols., Bloomington, 1970-1977), I, *The Early Years*, 179-201. Clark called the years from 1838 to 1884 "The Bootstrap Decades."

[151] *Brevier*, 1879 (s.s.), 22. For other examples of objections that higher education was "too expensive," see *House Journal*, 1879, p. 200; *Senate Journal*, 1881, p. 250.

[152] *House Journal*, 1859, pp. 180-82. For the admission of women, see Clark, *Indiana University*, I:124.

former came into existence because teachers got one of their own elected to the General Assembly in 1865. Baskin E. Rhoads, who served only one term in the House, had taught and been a principal in Vermillion County before running. He authored the bill for the normal school, an institute to train elementary and secondary teachers, and steered it through at the 1865 special session.[153]

The first step toward establishing Purdue University was also taken in 1865 when the General Assembly voted to accept the terms of the Morrill Act on March 4.[154] Fierce competition over the site of the college delayed further action for four years.[155] The chief protagonists were Senators James Hughes (Monroe County) and John A. Stein (Tippecanoe County). Hughes proposed in 1869 to give the agricultural college and a medical school to Indiana University. Opponents accused him of being "a paid Attorney" of the university, a charge he found easy to dismiss: "The Bloomington college . . . has never been able to pay anybody for services here or elsewhere."[156] The medical school complicated matters as some legislators demanded that all branches of medicine (Allopathic, Homeopathic, Eclectic, Botanic, Uroscopic, Hydropathic or Water Cure, Chromo Thermal, Magnetic, Spiritualist, and the faith systems) be represented on the faculty. An exasperated Senator James M. Hanna of Clay County, whose constituency had no chance to land the prize, stooped to ridicule with an amendment that a spokesman for "each of the above systems shall be provided with a lecture chair . . . and each shall have a right to give his opinion at any time, or all at the same time." Hanna's amendment was rejected and the bill ultimately died.[157]

Senator Stein's bill establishing a college at Lafayette passed when the legislature decided to accept an endowment of $150,000 from John Purdue, a wealthy citizen of Tippecanoe County. The college would be named after Purdue and specialize in scientific agriculture.[158] Bitter debate over the name and location continued until 1873 when the legislature passed its first appropriation for the new institution.[159] Between 1875 and 1889 the only legislative questions of consequence regarding colleges were biennial proposals to merge the three state institutions into one. But none of these passed.[160]

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[153] *Laws*, 1865 (s.s.), 140-42; Boone, *History of Education in Indiana*, 388-89.

[154] *House Journal*, 1865, pp. 824-26; *Laws*, 1865, pp. 106-11. The Morrill Land Grant Act, passed by Congress in 1862, provided that states would receive thirty thousand acres of public land for each United States senator and representative for the purpose of fostering agricultural and technical education.

[155] For the failure to act in 1867, *Senate Journal*, 1867, pp. 441-46; *Brevier*, 1867, pp. 184-85.

[156] *Brevier*, 1869 (s.s.), 387-96, quotation, 391.

[157] *Ibid.*, 505.

[158] For the work of Senator Stein, see Thomas R. Johnston and Helen Hand, *The Trustees and the Officers of Purdue University, 1865-1940* (Lafayette, 1940), 13-17, 75-76.

[159] The Indianapolis *News*, November 29, 1872, described John Purdue as "a superannuated, meddling egotist." For the debate over the appropriation, *Brevier*, 1873, pp. 120, 414-18.

[160] For examples, see *Senate Journal*, 1877, pp. 757-58; *ibid.*, 1881, p. 250; *House Journal*, 1879, pp. 200-1.

Benevolent and penal institutions were closely akin to the state colleges insofar as they performed some essentially educational functions. Unlike the colleges, however, the asylums and prisons were major sources of patronage. The four institutions established at Indianapolis in the 1840s constituted the major charitable undertakings until after the Civil War. Legislators considered them "the pride and glory of the State" and watched them "with jealous care lest they should fall into unworthy and incompetent hands, or become simply instruments for the advancement of the interests of individual or political parties."[161] Except for one instance of alleged sexual misconduct and one instance of graft in the 1850s, the four generally lived up to the glowing descriptions invariably found in legislative committee reports.[162]

Correctional institutions were the first to expand. The state prison at Jeffersonville had not been improved or repaired since it opened in 1821. The superintendent reported one case of typhus and more than thirty cases of scurvy in 1856 and said crowded conditions and the lack of sanitation were to blame. He also had difficulty keeping an assistant in the prison hospital because workers were "not sufficiently educated in bad smells to stand it."[163] After an investigation, lawmakers provided in 1859 for another prison north of the National Road.[164] In 1867 the legislature fulfilled the constitutional mandate for a house of refuge for juveniles by providing for an Indiana Boys School.[165] Two years later, Governor Conrad Baker pointed to the "present and pressing necessity for a separate prison for female convicts." The General Assembly responded by establishing the Indiana Women's Prison at Indianapolis.[166]

The first expansion of benevolent institutions came in 1867 when legislators created an Indiana Soldiers' and Seamen's Home for servicemen and their orphans. The home was to be located at Knightstown Springs, Rush County.[167] A school for the feeble-minded was added to the Knightstown home in 1879; in 1887 the school was moved to Fort Wayne after scandal nearly ruined the Orphans' Home.[168] Benevolent institutions proposed but not acted upon included a "home for friendless females" (prostitutes) and an asylum for inebriates.[169]

Politics, local logrolling, and genuine need combined to increase the number of penal and benevolent institutions after the Civil War. Politics was involved because of the increased possibilities of patronage. Local logrolling was involved

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[161] *House Journal*, 1861, p. 781. For similarly glowing committee reports, see *ibid.*, 1865, pp. 241-44; *ibid.*, 1867, pp. 612-16; *ibid.*, 1869, pp. 770-76.

[162] *Senate Journal*, 1857, pp. 755-96; *House Journal*, 1857, pp. 921-23.

[163] Dr. Robert Curran to Joseph A. Wright, July 15, 1856, in Wright Papers, Indiana Division, ISL.

[164] *Laws*, 1859, pp. 135-38. Michigan City was chosen as the site of this prison.

[165] *Ibid.*, 1867, pp. 137-45; *Brevier*, 1867, pp. 184, 243-44. For earlier deliberations on a juvenile refuge bill, see *Senate Journal*, 1853, p. 510; *House Journal*, 1855, pp. 266-68.

[166] *House Journal*, 1869, pp. 53, 451, 482; *ibid.* (s.s.), 30, 348-49, 473; *Brevier*, 1869, pp. 159, 167, 274, 280, 352, 397, 429; *ibid.* (s.s.), 116-17, 159-60; *Laws*, 1869 (s.s.), pp. 61-72.

[167] *Laws*, 1867, pp. 190-93.

[168] *Ibid.*, 1879 (s.s.), 76-79; *ibid.*, 1887, pp. 46-55.

[169] *Brevier*, 1873, pp. 468-69; *House Journal*, 1877, p. 537.

because each section of the state demanded its own asylum or prison. By the 1870s these institutions experienced complete turnovers in administrative and supervisory personnel with each change in party control at Indianapolis. By the 1880s, almost without exception, they were dominated by party hacks. Concurrent scandals in the mid-1880s at the state orphanage, the hospital for the insane, and the southern prison nearly destroyed the entire system.

By 1875 the system of public charities and corrections had become hopelessly entangled in politics. In that year Republicans in the House conducted a blatantly partisan investigation of Democratic administrators at the State Prison South.[170] Senate Democrats retaliated with their own investigation of Republican administrators at the Insane Hospital.[171] At every session thereafter partisan committees investigated charges of cruelty, extortion, and fraud allegedly perpetrated by state agents against students and inmates at various state institutions.[172] In 1883 a Democratic majority passed a series of bills aimed at putting all charitable and correctional institutions under party control. The package included new Northern, Eastern, and Southern Hospitals for the Insane. The act specified that Evansville would be the site of the southern hospital; the site of the other two was to be determined. Each was to be staffed exclusively by Democrats since the act gave the majority party control over appointments.[173] By 1885 the legislature investigated major scandals at the Knightstown Orphans' Home and the State Prison South; in 1887 it investigated another at the Insane Hospital in Indianapolis.

The orphanage scandal involved pederasty and child abuse. A member of the House committee that investigated said one of the trustees of the institution was guilty of the "most outrageous and criminal conduct" with the inmates. The culprit was present for the investigation and the findings so angered the House that it ordered him removed. This was the first time an officer of a state institution was expelled from the hall by order of the General Assembly.[174] The prison scandal involved sadism and repeated cruelty.[175] The scandal at the Insane Hospital involved nepotism, cruelty, extortion, and graft. A House committee found proof that patients were fed maggoty butter, and pork from a drove of hogs dying of cholera; the committee also found evidence that patients were struck and kicked by the staff.[176] Reform was so obviously necessary that the Democratic General Assembly of 1889 cooperated with Republican Governor Alvin P. Hovey in conducting a thorough housecleaning.[177] Because of such excesses, the charitable and correctional institutions were removed from politics

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[170] *House Journal*, 1875, pp. 1226-91; *ibid.* (s.s.), 1406-12.

[171] *Senate Journal*, 1875, pp. 528-29, 1299.

[172] For examples, see *House Journal*, 1881, pp. 127-28, 689-91.

[173] *Laws*, 1883, pp. 164-68.

[174] William M. Copeland file, Legislator, IHSL; *House Journal*, 1885, pp. 294-97, 349-50, 934-37; *ibid.* (s.s.), 1221-22, 1247-48.

[175] Lee W. Sinclair and George W. Hobson files, Legislator, IHSL.

[176] *House Journal*, 1887, pp. 343-45, 626-27, 856-77. See also William Dudley Foulke, *Lucius B. Swift: A Biography* (Indianapolis, 1930), 30-32.

[177] *House Journal*, 1889, pp. 1371-80; *Senate Journal*, 1889, pp. 1491-1500.

in the 1890s and they began to be staffed by professionals operating under civil service rules instead of patronage.

The example of the state Board of Health proved the advantages of having trained professionals staff necessary state agencies. The board had been established in 1881 in response to recurring demands for legislative action against quackery in medicine, surgery, and pharmacy. Members were appointed by the governor, not elected by the legislature. Appointees had to meet rigid qualifications spelled out by law and were charged with coordinating a statewide community health effort. They were to gather vital statistics on death and sickness; investigate sanitary conditions and the causes of epidemics; and advise the officers of state government on the steps necessary to improve the health of citizens.[178]

The regulation of community mores received far more legislative attention than public health. Temperance was the most conspicuous issue in this area, with Sabbath-breaking a close second. A vast majority of lawmakers had no doubts that it was a proper function of government to enforce God's law as they interpreted it. A citizen who had the temerity to suggest that the legislature had no business regulating private behavior was dismissed by a House committee in 1853 as "a nuisance, deserving the severest abatement . . . a fit subject for a lunatic asylum."[179] And so, citizens were forbidden to riot, hunt, fish, quarrel, work, or engage in their usual avocations on Sunday.[180] Adultery, fornication, and gambling were forbidden on every day by legislation already on the books.

In the regulation of community mores divorce was the most spectacular failure. With legislative divorce forbidden by the Constitution, lawmakers passed an act in 1852 turning the matter over to the circuit courts. Inadvertently, in the press of the long session, they made Indiana a divorce mecca, "the first divorce mill in [the nation's] history."[181] The law lacked a residency requirement; all a plaintiff had to show was that he or she lived in the county at the time of filing and a person's own affidavit was sufficient on the point. It also listed the usual grounds and ended with a catch-all clause that a court could grant a divorce for any cause it deemed proper. By 1857 the increase in the number of divorces led Governor Joseph A. Wright to request passage of a two-year residency requirement. By the 1860s the ease of divorce in Indiana attracted discontented spouses from as far away as Europe.[182] Organized churches and

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[178] For the early history of the Board of Health, see Thurman B. Rice, *The Hoosier Health Officer: A Biography of Dr. John N. Hurty and the History of the Indiana State Board of Health to 1925* . . . (Indianapolis, 1946), 61-76.

[179] *House Journal*, 1853, p. 956.

[180] *Senate Journal*, 1855, p. 140.

[181] Val Nolan, Jr., "Indiana: Birthplace of Migratory Divorce," *Indiana Law Journal*, 26 (1951), 515; *Laws* (revised), 1852, 2:233-38.

[182] For Wright's request, Nolan, "Indiana: Birthplace of Migratory Divorce," *ILJ*, 26:521. For a comprehensive review of the divorce problem, see Richard Wires, *The Divorce Issue and Reform in Nineteenth-Century Indiana* (Muncie, Ind., 1967). The most prominent European to visit Indiana to shed a spouse was the German classicist Heinrich Schliemann who divorced his "stubborn, ferociously frigid" Russian wife in 1869. See Eli Lilly (ed.), *Schliemann in Indianapolis* (Indianapolis, 1961), 6.

many legislators were scandalized by this result but an effective remedial law was not passed until 1873. The new law imposed a two-year residency requirement and stipulated that residency must be established by the testimony of two witnesses. It also abolished the omnibus clause.[183] The act of 1873 served as the basis for divorce law in the state until the 1960s.[184]

Other issues attended to with some degree of regularity included swamp lands, labor/management relations, and veterans affairs. Land in the flat, marshy northwestern corner of Indiana, often flooded by the Kankakee River, was given to the state when Congress passed the Swamp Lands Act in 1850. The land was thought to be uninhabitable before the federal grant; with its acquisition, drainage became an everyday concern of the General Assembly. Many lawmakers also became involved in land speculation and a Senate committee in 1859 unearthed numerous examples of ineptness and even criminality in the state's handling of the swamp lands.[185] Labor legislation included a bill in 1867 that permitted children between the ages of eight and sixteen to work eleven hours a day in mills.[186] In 1870 a mine safety act mandating proper ventilation passed "after great opposition on the part of the friends of capitalists and operators."[187] Another labor bill forbade the employment of minors in gambling dens, houses of ill repute, or "other disreputable places."[188] Veterans first received attention in 1865 with passage of a relief act for soldiers' families over objections that the legislation would only help "an indolent class of persons." "We should be careful how we trifle with the people's money," said one opponent.[189] In 1867 the legislature passed the Soldiers' Home bill after debating whether or not the legislation should provide a matron. The provision for a matron was included after one legislator argued that "such a home without a woman to look after and take charge of it would not be a place where any body would want to be."[190] The most permanent veterans' "benefit" was the construction of a monument honoring the war dead. First proposed in 1872, the monument became a leading objective for the Grand Army of the Republic. The campaign reached fruition with enactment of the Monument Circle bill at the 1887 session.[191]

For nearly four decades partisanship dominated and disrupted Indiana's legislative process. When party control was split between the houses, or between the legislature and the governor, lawmaking was always more difficult and some-

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[183] *Laws*, 1873, pp. 107-12.

[184] Nolan, "Indiana: Birthplace of Migratory Divorce," *ILJ*, 26:526.

[185] *Senate Journal*, 1859, pp. 1030-38. For details about the legislature and this federal grant, see Stephen F. Strausberg, "Indiana and the Swamp Lands Act: A Study in State Administration," *IMH*, 73 (1977), 191-203. See also Charles Kettleborough, *Investigation of the Drainage Laws of Indiana, 1779-1913* (Indianapolis, 1914).

[186] "Infants in Cotton Mills," *Brevier*, 1869 (s.s.), 82-83, 96-97, 304-5.

[187] Isaac M. Compton file, Legislator, IHSL.

[188] John N. Loop file, *ibid.*

[189] *House Journal*, 1865, pp. 263-65.

[190] *Brevier*, 1867, pp. 205-7, quotation, 205.

[191] *House Journal*, 1872 (s.s.), 48-50; *Senate Journal*, 1885, pp. 296-97; *Laws*, 1887, pp. 30-36.

times ceased altogether. The letting of the state printing contract to William Burford in 1883 was one of the first indications that lawmakers could rise above party considerations when the interests of good government required it. Ironically, this was done at the same session that the benevolent and correctional institutions were put under the total control of the Democratic party. The outrages that followed immediately in the administration of these institutions, when coupled with the collapse of representative government at the 1887 session, led to demands for reform. As a result, the 1889 session marked a turning point for the General Assembly. Although Democrats controlled both houses while Republicans controlled the executive branch, a bipartisan effort was made to cure the worst evils. The secret ballot law restored the integrity of the democratic process in the state. Also, the housecleaning in the administration of state institutions marked a step toward placing these vital agencies beyond the reach of partisan politics. The era ended amidst definite signs that the legislature was maturing, that statesmanship could at times supplant the pattern of partisanship normally dominant in the Indiana General Assembly.

Chapter 8

The Legislators

Campaign posters in Vigo County in 1884 announced: "Grand Secretary and Treasurer, Brotherhood of Locomotive Firemen, Candidate for the Legislature." In this fashion, Eugene V. Debs made his one foray into Indiana's electoral politics. Debs won a seat in the House as a Democrat and, before going to Indianapolis, he drafted a bill to require corporations to compensate employees for job-related injuries. The bill failed in the Senate after passing the House and Debs became soured on what he called "the system." Upon returning home he informed his family that he would never run for public office again. The plight of the working class forced Debs to change his mind, however, and he ran five times on the Socialist party ticket for the office of president of the United States between 1900 and 1920. Debs is also remembered as the author of *Unionism and Socialism: A Plea for Both* (1904), and as co-founder of the International Workers of the World. He was one of the most influential Americans to have served in the Indiana legislature between 1850 and 1890.[1]

Lew Wallace and Charles Major also served in the Indiana General Assembly and went on to fame. Each won acclaim in the field of American literature, the former for *Ben-Hur* (1880), the latter for *When Knighthood Was in Flower* (1898). Both of these nineteenth century classics were translated into epochal motion pictures during the twentieth century. Like Debs, neither writer remembered his experience in the General Assembly as particularly inspiring. Wallace stated near the end of his life that as an old man he could sit in judgment upon his youth. "Speaking in that philosophic spirit, I cannot be proud of my career as a law-maker [in 1857]." Wallace, a Democrat, found that the partisan effort to reelect Jesse D. Bright to the United States Senate distracted from engaging "seriously in legislative business . . . ." After the Civil War, Wallace became a Republican and he served later as a governor of New Mexico Territory and as United States minister to Turkey. He remained active politically until his death.[2] On the other hand, the fight over a United States Senate seat at the uproarious session of 1887 left Charles Major so disenchanted that he never again participated in partisan politics.[3]

William Dudley Foulke, Walter Q. Gresham, and Timothy E. Howard were others who gained renown after brief service in the legislature. Foulke won distinction as the author of *Slav or Saxon* (1887), as the biographer of Oliver P. Morton, as a civil service reformer, and as a leader of the Progressive movement. He felt legislative work at his first session in 1883 "trifling and

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[1] Ray Ginger, *The Bending Cross: A Biography of Eugene Victor Debs* (New Brunswick, N.J., 1949), 41-43; *House Journal*, 1885, pp. 136, 464, 1246, 1293; *Senate Journal*, 1885, p. 881.

[2] Lew Wallace, *Lew Wallace: An Autobiography* (2 vols., New York, 1906), 1:251.

[3] Edward H. Chadwick, *Chadwick's History of Shelby County, Indiana* (Indianapolis, 1909), 340.

futile," and his second session in 1885 memorable mainly because the "venerable" Sarah T. Bolton recited her poem "Paddle Your Own Canoe" to the Senate.[4] Gresham served as a Republican in the House at the 1861 session. He later converted to the Democratic party and served, while Grover Cleveland was president, as postmaster general, secretary of the treasury, and secretary of state.[5] Howard became well-known after his legislative service as a justice on the Indiana Supreme Court, as a historian of St. Joseph County, and as a professor of law at the University of Notre Dame.[6]

For every Debs, Wallace, or Foulke who served between 1850 and 1890, there were dozens of nondescripts like Artillus V. Bartholomew (House, 1855). When William H. English sought data for a proposed legislative directory, Bartholomew stated that his life had been "quiet, uneventful" and not one to afford "material for book making."[7] Milo R. Smith (Senate, 1873-1875) told English that most legislators had "only moderate ability" and deserved no more recognition "than the average constable." Since Smith felt his own life was a case in point, he added that "I would take it as a great personal favor if you would leave me out entirely."[8] Bartholomew and Smith were typical of the majority of 1,966 men who served during the era. An astounding 71.7 per cent (1,158 individuals) served only one term in the House; 60 per cent (326) of the senators served only one term and an additional 123 (22.7 per cent) served only one year. One hundred seventy-four members moved from the House to the Senate while sixty members went to the House after serving in the Senate. One hundred ninety-two men served during both halves of the nineteenth century; thirty-nine had been delegates to the second Constitutional Convention; and 113 individuals served in both the nineteenth and twentieth centuries.[9]

The place of birth is known for all but thirteen of the men. Four states contributed 42 per cent of the total, with 371 coming from Ohio, 181 from Kentucky, 122 from New York, and 118 from Pennsylvania. More than one third (671) were native-born Hoosiers, including 281 of the 551 individuals who served during the 1880s. The rest came from twenty-four other states or the District of Columbia and eight foreign countries (including forty from Germany, twenty-two from Ireland, and fifteen from England). Six legislators were born west of the Mississippi River, but none farther west than the first tier of trans-Mississippi states. One, Andrew J. Gossman (Dubois County), was born at sea

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[4] William Dudley Foulke, *A Hoosier Autobiography* (New York, 1922), 74, 77. Mrs. Bolton also addressed the House. *House Journal*, 1885, p. 1106.

[5] Matilda Gresham, *Life of Walter Quintin Gresham, 1832-1895* (2 vols., Chicago, 1919), 2:688-700.

[6] R. E. Banta (comp.), *Indiana Authors and Their Books, 1816-1916* (Crawfordsville, Ind., 1949), 157-58.

[7] Bartholomew file, English Legislator Collection, Indiana Historical Society Library, Indianapolis.

[8] Smith to English, July 4, 1888, Smith file, *ibid.*

[9] All statistics and tables in this chapter are based upon quantification of the data in *A Biographical Directory of the Indiana General Assembly* (2 vols., Indianapolis, 1980, 1984), Vol. 1, *1816-1899*, Vol. 2, *1901-1984*.

while his parents were emigrating from Bremen, Germany, to Baltimore, Maryland. In all, 94 per cent are known to have been born in the United States while just over 5 per cent are known to have been foreign-born. (See Appendix A, Table 4.)

The mean age for lawmakers was forty-five years, with the mean increasing from forty-one years in the 1850s to forty-four years in the 1860s, to forty-six and one-half years in the 1870s, and to forty-eight years in the 1880s. Senator William Grose (Henry County) had the distinction, at age seventy-six in 1889, of being the oldest to serve.[10] Representative Hiram Iddings (Noble County) turned seventy-five during the session of 1889 to become the oldest member to serve in the House. The only others who served as septuagenarians were Representatives Smith Vawter (1881) and Thomas Washburn (1875). Representatives Godlove O. Behm (1851-1852), William P. Edson (1857), and Philip Zoercher (1889) each served at age twenty-two, with Zoercher being the youngest lawmaker of the period.[11] Representative James C. Claypool of Fountain County had the unique distinction of being the youngest member at his first session in 1877 and the oldest member at his second session forty-eight years later in 1925.[12] Washington L. Black (1853) and Horace Heffren (1857) both served in the Senate at the constitutionally minimum age of twenty-five, with Black being the younger by two weeks.[13]

There were no career legislators during the period. Indeed, few even approached such status. In the Senate, 326 members served only one term while another 123 members served but one year. That meant 83 per cent served one term or less while only 17 per cent (ninety-three senators) served more than one term. Of these, thirty-three served two full terms; and only two (Elisha G. English and William C. Thompson) completed four full terms.[14] At five of the twenty

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[10] Grose edged Senator William C. Thompson (Marion County, 1889) by five days, having been born December 16, 1812, as opposed to Thompson's birthdate of December 21, 1812. John Yaryan of Wayne County was the oldest man ever to serve. Yaryan began his legislative career in the House during the 1840s, and served again during the 1850s and 1870s. He was elected to the Senate in 1890, and was eighty-nine years old when he completed his term at the 1893 session. Born November 27, 1803, Yaryan died January 27, 1894, exactly two months after his ninetieth birthday.

[11] Zoercher did not turn twenty-three until October 1, 1889, nearly seven months after the session ended.

[12] Claypool obituary, Indianapolis *Star*, August 11, 1932.

[13] Black was born June 8, 1827; Heffren May 27, 1831. There is a difference of nineteen months in the possible birth dates of Senator William E. McLean (Vigo County, 1857). Equally reliable sources give it as either January 12, 1831, or October 12, 1832. If it were the latter date, then McLean would not have been of constitutional age at the 1857 session. Since both parties challenged every seat on all possible pretexts at this session, it is unlikely that Republicans would have allowed McLean to go unchallenged if he were not of age. McLean's military record from the Civil War, the WPA marriage and death records for Vigo County, and a broadside listing the members of the House in 1861 all indicate that the earlier date is the more likely. See Civil War Records, Archives Division, Commission on Public Records, Indiana State Library, Indianapolis; WPA Marriage and Death Records (1905)—Vigo County, Genealogy Division, ISL; and 1861 broadside, Broadside Collection, Indiana Division, ISL.

[14] Three of English's four terms were served during the pioneer period (1845-1851), however, and Thompson's last term ended in 1891. So Thompson, with seven years in the Senate between 1851 and 1889, had the longest tenure of the era.

sessions, 50 per cent of the senators were freshmen; at thirteen of the sessions freshmen constituted more than 40 per cent of the membership.

The lack of experience in the House was even more striking. At six sessions, nearly 80 per cent or more of the representatives were new to the legislative process. At eleven sessions the number of freshmen ranged between 70 and 77 per cent. At the remaining sessions, 61 per cent of the representatives were serving for the first time. Seventy-two per cent (1,158 men) served but one year; 20 per cent served only two years; ninety-three men (6 per cent) served three years. Forty-four representatives served from four to six years. David C. Branham, with eight sessions in the House and one session in the Senate, had the longest tenure of the era with nine years of service.[15] (See Appendix A, Tables 5-6.)

The low level of seniority in both houses proved a great weakness in the legislative process during the second half of the nineteenth century. It helps explain why no one served more than once as speaker of the House between 1851 and 1889. More than any other single factor, the dominance of inexperienced legislators also helps explain why there was little continuity or consistency from session to session. This situation would not improve noticeably until the twentieth century when both houses discovered the value of interim study groups and continuing staff.

Farmers remained more numerous than any other occupational group, although their numbers dropped below the absolute majority of pioneer days when 53.4 per cent of lawmakers derived a livelihood from agriculture. Between 1851 and 1889 at least 41 per cent (802 individuals) belonged to this "useful and much to be respected class . . . who with both mind and money help sustain the nation."[16] Perhaps because of their numbers, farmers were also the only occupational group that formed a bipartisan bloc while serving. This happened in 1875 when members of both parties from each house held a series of evening meetings, described by one newspaper as "A Granger Conclave," in the State House. Representative Alfred Williams of Brown County said farmers who were legislators met "to become better acquainted." The meetings were held once a week so farmer-legislators could discuss bills affecting their interests.[17] The vast majority of farmers served only one term, suggesting that most of them agreed with Samuel Harper (House, 1875) who stated that if he could live his life over he would choose farming "even in preference to being a perpetual member of the Legislature of Indiana."[18]

Law remained the second most prevalent occupation, with at least 629 of the members (32 per cent) engaged as attorneys. Lawyers served more than one term more frequently than those engaged in other occupations and most of the legislators distinguished for their oratory were lawyers. It could have been said of many of them, as it was said of Franklin P. Foster (House, 1887, Madison

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[15] Branham served from 1855 to 1867 and in 1873 in the House; in 1876 he was elected to the Senate to complete the term of John L. Roe, who died.

[16] Joseph M. Bulla file, Legislator, IHSL.

[17] Indianapolis *News*, January 29, 1875; Indianapolis *Journal*, February 3, 1875.

[18] Harper to William H. English, June 13, 1889, Harper file, Legislator, IHSL.

County), that he was "as full of oratory as Kidd's Elocution, revised edition" and always fidgeted when somebody else spoke. Robert S. Dwiggins (Jasper County) was remembered as "not only versatile but volatile" as a speaker; he was "universally upon the floor" of the Senate in 1871, making forty-nine motions and fifty-five set speeches. George A. Byrd (Senate, 1889, Clay County) was considered an orator not for his voice but because he kept the index finger of his right hand pointed at the presiding officer and, when not pointing, he would make wild gestures with his long, lean arm.[19]

While nearly 75 per cent of the legislators were either farmers or lawyers, a variety of other occupations was represented. (See Appendix A, Table 7.) Two hundred twenty-nine merchants, embracing categories from small shopkeepers to wholesalers, served, as did 196 physicians and dentists. There were 115 businessmen (a category used to designate entrepreneurial types who derived their livelihood from investments, corporate activities, property and real estate holdings), and 112 bankers. One hundred lawmakers earned a living from railroads—forty-one in management positions and fifty-nine in such diverse areas as ticket agent, fireman, or engineer. Nearly 100 newspapermen served, along with ninety-six artisan/mechanics (painters, carpenters, masons, shoemakers, blacksmiths, coopers, millwrights, and plasterers). There were also eighty-two clerymen, forty-five manufacturers, and forty-five millers. More than 600 lawmakers taught at some time, most of them long before their legislative service, and very few made a career out of teaching. In addition, there was a smattering of druggists, engineers, hotelkeepers, nurserymen, realtors, insurance agents, salesmen, and at least one dawdling gunsmith. Thomas H. Clark (House, 1855), a proud craftsman who boarded about four miles from the capitol, walked to and from the daily sessions. Once he did not arrive at the House until afternoon. On his way to town he had met a boy with a broken gun and became so absorbed in fixing it that he forgot the time.[20]

The fact that only 115 lawmakers (5.8 per cent) served in the state militia, and almost all of these prior to 1850, reflected the decline of militia duty in importance by midcentury. Nonetheless, military service was important in political careers as reflected by the 506 legislators who were in uniform during the Civil War. This service became a special asset in running for office after 1865, as did membership in the Grand Army of the Republic, the first veterans organization to become a significant factor in Indiana politics. Almost without exception, Civil War veterans who were lawmakers also belonged to the GAR. In all, 549 legislators (28 per cent) who served between 1851 and 1889 saw duty in the nation's wars between 1776 and 1898, including fifty-four veterans of the Mexican War and four who served in the Spanish-American War. (See Appendix A, Table 8.)

As a group, legislators remained better educated than their fellow citizens during the second half of the nineteenth century. More than 60 per cent are

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[19] Foster, Dwiggins, and Byrd files, *ibid.*

[20] Clark file, *ibid.*

known to have had some formal education. At least 600 (31 per cent) attended a college, with the number increasing from 18 per cent of those who served between 1851 and 1859 to 45 per cent of those who served between 1881 and 1889. A majority of those who attended college (321) received their higher education in the state, with ninety-one having attended Indiana University and seventy-seven DePauw University. Other state colleges attended by ten or more legislators included Wabash College (34), Hanover College (27), and Butler University (16). One hundred forty-eight of the 196 physicians and dentists who served through 1889 attended a medical school, but only 138 of the 629 lawyers attended a law school. (See Appendix A, Tables 9-10.)

Lawmakers displayed interest in education in various ways. Six hundred sixty-five of the approximately 2,400 lawmakers during the second half of the nineteenth century taught school at some time, the vast majority very early in their careers while studying law or medicine. There were sixteen who taught in a law school, ten who taught in a medical school, and an additional twelve who were college professors in other disciplines. Education administrators included eighty-four members who served on a board of education, seventy-six school trustees, fifty-five superintendents of education on the local or county level, forty-three principals, thirty-nine school examiners, and eleven school commissioners. In all, 372 lawmakers had educational service other than teaching, a total that takes into account those who had multiple education service but does not include those who taught in medical schools, law schools, or colleges with no other educational service. Ninety-six lawmakers served as college or university trustees, most of them long after their legislative service, and nearly half of them at Indiana University or Purdue University. Finally, the educational philanthropy of former legislators included establishing a German library at DePauw University, and founding or co-founding Butler University, Fort Wayne College, the law school at Valparaiso University, and various academies for secondary education.

Eleven hundred thirty-three legislators of the era served in local government on the township, city, or county level, with nearly 950 of these using local office as a steppingstone to the General Assembly. Two hundred thirty-eight served as a district judge or prosecuting attorney, 131 of them before their legislative service. Two hundred seven served in state administrative positions such as commissioner, director of a state agency, or trustee of a state institution. One hundred sixty-seven served in federal positions at the state level, such as United States marshal or tax collector. Twenty-one men advanced from the legislature to terms on the state supreme or appellate courts. Twelve served as federal judges. Isaac P. Gray, who served in the state Senate as a Republican from 1869 to 1871, was elected lieutenant governor as a Democrat in 1876 and became governor in 1880, completing the term of James D. Williams, who died. (Williams had served in the legislature between 1843 and 1873.) Gray served a second time as governor from 1885 to 1889. Claude Matthews (House, 1877) served as secretary of state from 1891 to 1893 and as governor from 1893 to 1897. James A. Mount (Senate, 1889-1891) was the only other legislator of the era to become governor, serving from 1897 to 1901. Two legislators, Daniel D. Pratt and David Turpie, later served Indiana as United States senators; fifty-eight served in the United States

House of Representatives, five of them before their state legislative service. Ten were elected to Congress from other states; nineteen served in the legislatures of other states; and five served as governors of other states or territories after leaving Indiana.[21] One man, Walter Q. Gresham, served as postmaster general and secretary of state in the cabinet of Grover Cleveland; another, John C. New, served as treasurer of the United States for President Ulysses S. Grant in 1875-1876. (See Appendix A, Table 11.)

The even balance between Indiana's two major political parties was graphically illustrated by the fact that 972 Democrats served in the Indiana legislature between 1851 and 1889, as opposed to 968 who served as members of the second major party.[22] There were, in addition, thirty Greenback party members who served. Democrats controlled both houses at eight sessions (1851, 1853, 1863, 1871, 1875, 1879, 1883, and 1889) while Republicans controlled both houses six times (1859, 1861, 1865, 1867, 1869, and 1873).[23] The parties split control of the houses on five occasions: Democrats controlled the Senate in 1855, 1877, and 1887, while Republicans controlled the House; Republicans controlled the Senate in 1857 and 1885 while Democrats controlled the House. At the 1881 session, Republicans controlled the House and neither party was able to organize a Senate in which each controlled twenty-five votes. (See Appendix A, Table 12.)

While 1,667 legislators (85 per cent) never changed political affiliation during their lifetime, the controversies of the era caused more legislators to switch parties between 1851 and 1889 than at any other period in the history of the General Assembly. In the 1850s and 1860s, the demise of the Whig party and the furor over slavery combined to cause 156 lawmakers to change parties. Prior to 1870, forty-four former Whigs became Democrats and about 100 Democrats joined the new Republican party.[24] After 1870, the soft money issue led forty-six law-

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[21] These included Thomas W. Bennett, a Republican senator from Union County in the mid-1860s, who was territorial governor of Idaho from 1871 to 1875 and delegate to the U.S. House of Representatives in 1875-1876. When the Idaho legislature passed a bill forcing owners of hogs to keep them penned up, Bennett vetoed it because "I wouldn't sign a bill that spelled hog with a big H and Governor with a little g." Bennett file, Legislator, IHSL.

[22] The 968 include seventy-one Whigs at the sessions of 1851 and 1853, seventy-two Fusionists from 1855, and eight Know Nothings who served between 1855 and 1859.

[23] Although Republicans had only twenty-four Senate seats and forty-six House seats at the 1859 session, they organized both houses because Know Nothings and Anti-Lecompton Democrats voted with them.

[24] In all, 112 Democrats switched to the Republican party between 1851 and 1889, the vast majority of them between 1855 and 1865 when they broke with the Democrats' stand on slavery. Jason B. Brown became a Republican for personal gain. He represented Jackson County as a Democrat in the 1860s and 1880s, but switched to the Republican party in 1872 to support Oliver P. Morton for the U.S. Senate. In return, Brown was named secretary of Wyoming Territory, serving from 1873 to 1875. He returned to Jackson County and the Democratic party in 1876, and became that party's floor leader in the Senate at the sessions of 1881 and 1883. From 1889 to 1895, Brown served as a Democrat in the U.S. House of Representatives. See Brown file, Legislator, IHSL. Whigs, Fusionists, and Know Nothings who became Republicans are not considered to have changed political parties.

makers to join the new Greenback party. At the same time, twenty-seven Republicans switched to the Democratic party for a variety of reasons. In addition, forty-eight of the men who served during the era made more than one change in political affiliation.

The data show that 1,301 of the 1,966 men who served between 1851 and 1889 professed religious belief, although 179 of them did not affiliate with any church.[25] Only five could be positively identified as non-believers, while the religious affiliations or convictions of 640 others were not determined. The Methodist church, with 312 known adherents, continued to have the largest representation in the state legislature, followed by Presbyterians (243), Disciples of Christ (173), and Baptists (110).[26] Other denominations with sizeable representations included Universalists (56), Quakers (48), Episcopalians (39), and Roman Catholics (33). In addition, there were a few Lutherans, United Brethren, Congregationalists, and Unitarians. Three Jews, two Mormons, and at least two spiritualists served.[27] (See Appendix A, Table 13.)

Free and Accepted Masons continued to be the most dominant fraternal affiliation for lawmakers, with at least 507 legislators (25.6 per cent) known to be members. This total included seven of the twenty-one speakers of the House during the era. The order also continued to be equally influential in each party, with at least 268 of the 972 Democrats belonging, and 245 of the 968 Republicans who served. In addition, six of the thirty legislators affiliated with the Greenback party were Freemasons. Masonic membership, which had declined in the legislature after the anti-Masonic movement of the early 1830s, remained at just about 20 per cent between 1851 and 1870. In the 1870s, it increased to 27 per cent; and during the last decade of the era membership reached 35 per cent, the highest level achieved by any fraternal organization represented in the legislature to that point.[28] (See Appendix A, Table 14.)

The location of the state Grand Lodge temple—cater-corner from the State House on the southeast corner of Washington and Capitol streets—ensured that

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[25] Those who did not identify with a specific church included Erastus L. Chittenden (House, 1883) who "In matters of religion . . . is woefully confused, brought up an Episcopalian, he attends about every other church." Chittenden file, *ibid.*

[26] John A. Polk was a Baptist when he served at the 1861 sessions. During the Civil War, however, he "was expelled with fifty other Democrats because we would not support a 'preacher' who used the pulpit to abuse our party & principles." Polk to William H. English, July 16, 1888, Polk file, *ibid.*

[27] One result of the multiplicity of denominations represented was the development of the practice of using ministers of various churches in Indianapolis to open the proceedings in each house every day with prayer. This practice originated in the 1850s and continued through the 1880s. There were frequent attempts to name a permanent chaplain for the session in each house, but these were always handily voted down except in the Senate in 1885. In that year James E. McCullough (Gibson County) moved to name a permanent chaplain. Marcus C. Smith of Delaware County amended to continue the practice of using ministers of various denominations. Smith's amendment was adopted 24 to 22. *Senate Journal*, 1885, pp. 11-12.

[28] Since the order was a secret society, it is possible that total membership was somewhat higher. No other affiliation was more consistently claimed by lawmakers, however, and they rarely tried to hide a Masonic tie.

Masonry would be influential in the political life of the state and the cultural life of the capital city. The second Constitutional Convention met at the temple when it had to vacate the State House for the legislative session of 1850-1851. The lecture and concert hall at the temple was one of the most widely used in Indianapolis in the 1850s and 1860s, with Ralph Waldo Emerson and Horace Greeley among the prominent lecturers. At the 1851-1852 long session, Representative John Lyle King of Jefferson County attended events at the temple more frequently than any other place in town even though he was not a Mason. The entertainments that attracted King included an exhibition by the Fakir of Siva on December 3, an "Exhibition of the Blind" on December 19, and a "Christmas festival" (a dance and supper) on December 25.[29] Ironically, the Grand Lodge temple was even more poorly constructed than the State House, and just sixteen years after its dedication it was in an "untenantable condition" with a roof that leaked. At the 1867 session, therefore, Senator Nathaniel P. Richmond, a Mason from Kokomo, introduced a bill to incorporate companies that built facilities used in any way for "the accommodation or convenience of Masonic bodies or lodges." Senator Thomas W. Bennett, a Mason from Union County, explained that the purpose of the bill was to enable the Masonic order to "build a magnificent building in this city . . . ." Since the order was anxious to begin the project, Bennett moved to suspend the constitutional restriction against three readings on the same day, and Richmond's bill sailed through both houses unanimously.[30] A new temple was completed on the same site by April, 1876, "a huge, six-story Victorian monstrosity" with an attached lecture and concert hall that seated 800 people.[31]

The campaign to build a monument at state expense for the heroes of the Battle of Tippecanoe was the one issue that Masons pressed throughout the era regardless of political party.[32] The Constitution of 1851 (Article 15, section 10) had provided that it was the "duty of the General Assembly" to enclose and preserve the site. No action was taken by the legislature, however, until 1887. In that year a select committee of two senators and two representatives visited the site and was appalled at the disrepair of the fencing and grounds. The committee members unanimously recommended passage of an act to implement the constitutional requirement. The act passed despite the bitter partisan wrangling over a United States Senate seat at the session.[33] It would take another twenty-one years, however, until 1908, before a monument was built.

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[29] For the importance of the temple in the city's cultural life, see Dwight L. Smith, *Goodly Heritage: One Hundred Fifty Years of Craft Freemasonry in Indiana* ([Franklin, Ind.], 1968), 98; John Lyle King diary, December 5, 19, 25, 1851, IHSL.

[30] Smith, *Goodly Heritage*, 100-1; *Senate Journal*, 1867, p. 551; *House Journal*, 1867, p. 1186; Ariel and William Drapier (comps.), *Brevier Legislative Reports* (Indianapolis, 1858-1887), 1867, p. 280.

[31] Smith, *Goodly Heritage*, 102-3.

[32] For one example, see report of the select committee on the Tippecanoe Battle Ground, *Senate Journal*, 1872 (s.s.), 194-96.

[33] The select committee was composed of four Freemasons, Republicans Jasper M. Dresser

Typical and Not-So-Typical Legislators

The typical legislator of the era was a native-born Hoosier who lived his entire life in the district he represented for only one term in the Indiana House. He married a girl from his immediate neighborhood, was a farmer, and was not a frequent office seeker. His seat in the General Assembly was the highest office he ever held, and most likely the highest he ever sought. He invariably professed the Christian religion, most often as a church-going Methodist, and he had no active military service. After his one term in Indianapolis, he returned to his district where he farmed for the rest of his days.

William Patterson (House, 1875) could serve as his archetype. Patterson was born February 11, 1827, in Jackson Township, Shelby County, the son of pioneer settlers David L. and Ann Shaw Patterson. His educational opportunities were minimal. He married Charlotte Eberhart of Jackson Township in 1846, and three children were born to this union. When Charlotte died in 1854, Patterson married his sister-in-law, Loretta Eberhart, who bore him another child. His second wife died in 1882, and Patterson was married a third time in 1884 to Elizabeth Mayes. Throughout his life Patterson adhered to the Democratic party, which nominated him for Shelby County's seat in the Indiana House in 1874. This was the only time he is known to have sought political office, although "For many years [he] was one of the most active democratic workers in the county." When he started out in 1846 "he had nothing but ordinary necessities of life." Through hard work and frugality, he became a successful farmer and landowner which "won for him not only the esteem and good will of his friends and neighbors, but created a supreme confidence in his integrity and ability." A lifelong Methodist, Patterson died in Jackson Township on March 30, 1913.[34]

John Quincy Donnell (House, 1879) was among the more extraordinary individuals to serve. Blind since childhood, Donnell attended the Indiana Institute for the Blind and Hanover College before he graduated from Oberlin College in 1870. He then studied law and was admitted to the bar in 1878, the same year Republicans of Decatur County nominated him for the legislature. He won the election, thereby becoming the first blind man known to have served. After his service, despite his handicap, he was a successful lawyer as well as newspaper editor and publisher.[35]

Some legislators not noteworthy except for curious reasons included John M. Kelly (House, 1887, LaGrange County) who barely lived in the state: "His house and cistern were in Indiana, while his barn, well, and smokehouse were

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(Tippecanoe) and Job Osborn (Tippecanoe), and Democrats L. Frank Brannaman (Jackson) and Jacob L. White (Johnson). See report of special committee on Tippecanoe Battle Ground, *Senate Journal*, 1887, pp. 595-98. For the act, *House Journal*, 1887, pp. 800-1; *Senate Journal*, 1887, p. 628; *Laws*, 1887, pp. 56-57.

[34] Shelbyville *Democrat*, March 31, 1913; *History of Shelby County, Indiana* (Chicago, 1887), 677.

[35] Donnell owned and edited newspapers in Greensburg and Anderson between 1884 and 1895. Donnell obituary, Indianapolis *News*, March 3, 1920.

in Michigan."[36] They also included George H. D. Gibson, known as "The member from Kentucky" when he represented Clark County in 1881. Gibson, while serving as prosecuting attorney for Floyd and Clark counties in 1878, moved to Louisville, Kentucky, and formed a law partnership. He still claimed his residence at Charlestown, however, and was elected to the House as a Democrat in 1880.[37] James N. Huston (Senate, 1887, Fayette County) was described as the supreme opportunist: " . . . verry [*sic*] light weight except so far as he has money he will do anything to get [to] the Legislature then claim the credit to himself. . . . an extortioner, and then a shiseter [*sic*]. . . . a corruptionist and a purloiner of papers, pays hush money to newspapers . . . for puffing him."[38] John Beggs (1871, Franklin County) was remembered as "probably the handsomest member of the Senate" but "so modest that he would blush like a school girl"; while Milton M. Galentine (1871, Marshall County) was one of the few members of the House who could say "he was not in a Saloon during the session."[39] Senator Nathan Cadwallader (Randolph County) was blamed for a great commotion at railway crossings after the 1879 session because he drew a bill to make crossings safer by stipulating that engineers must "ring the bell continuously" within eighty rods of any crossing of a street or public highway. The bill became law, but not before somebody substituted "sound the whistle" for "ring the bell." On the day the law took effect there was an "unearthly screeching of every engine whistle on every railroad in the State."[40] Washington C. Duncan (Senate, 1883-1889) enjoyed the greatest longevity of any of his peers: born June 24, 1851, he was over 102 years old when he died on October 3, 1953.

Seymour T. Montgomery and Charles G. Conn were two of the more eccentric members to serve. Montgomery published the first daily newspaper in Kokomo and represented Howard County in the House at the 1865 session as a Republican. He moved to Mishawaka in 1873 and was thought to have perished in a fire at the Studebaker Wagon Works in South Bend. He left behind three children and a wife who nightly placed "a lamp in the window to light the wanderer's return." In 1877 he was found, having remarried and changed his name to Major Wright E. Clarke, in Lagrange, Ohio, where he was serving as mayor. Clarke moved to Manistique, Michigan, in 1880 to edit a newspaper and serve as a probate court judge. Three years later, as a public official who "always advocated temperance measures," he barely escaped an assassination attempt occasioned by his stand against the sale of liquor.[41]

Charles G. Conn (House, 1889) parlayed his advocacy of spiritualism, women's rights, temperance, vegetarianism, and abstinence from sex and tobacco into

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[36] Kelly file, Legislator, IHSL.

[37] *Biographical Sketches of Members of the Indiana Legislature, Elected Nov. 12, 1880, and Senators Holding Over From 1878* (Indianapolis, 1880), 94.

[38] Charles M. Stone to William H. English, July 10, 1886, Huston file, Legislator, IHSL.

[39] Beggs and Galentine files, *ibid.*

[40] The bill was amended to its original form at the 1881 session. *Senate Journal*, 1879, pp. 110, 293, 408; *Laws*, 1879, pp. 173-74; *ibid.*, 1881, p. 590; Cadwallader file, Legislator, IHSL.

[41] "A Strange Life Ended," Kokomo *Dispatch*, May 27, 1896.

a political career that lasted from 1880 to 1908. Conn was awarded the Congressional Medal of Honor for bravery at the battle of Petersburg, where he was captured. In 1873 he invented an elastic rubber mouthpiece for his cornet after injuring his lip in a fistfight. This device led directly to the founding of the Conn Band Instruments factory at Elkhart, which became the largest manufacturer of its kind in the world. Conn was elected mayor of Elkhart in 1880, served in the Indiana House in 1889, and in the United States House of Representatives from 1893 to 1895. During this time he communicated regularly through a medium with his departed mother who instructed him on the righteousness of the causes he championed. When the Elkhart *Sentinel* refused to publish his editorial "effusions" in 1889, Conn founded the Elkhart *Truth* to keep the public informed. While serving as a Democratic congressman in 1893 he bought the Washington *Times* and launched a crusade against vice in the nation's capital. When sued for libel, he fled to Canada for a time, then returned to Washington and was acquitted. Conn sold his Elkhart interests in 1916 and moved to Los Angeles, California, where he remained until his death in 1931, well-known as an eccentric millionaire.[42]

Horace Heffren burst upon the legislative scene in 1856 when he was elected to the Senate as a Democrat from Washington County in his first try for public office. From the day he arrived in Indianapolis Heffren needled opponents with resolutions like one that suggested his Republican colleagues suffered from "essential inferiority" because they claimed to be "African" senators.[43] In 1859, David S. Gooding became enraged when Heffren called the Hancock County Republican a "*lying, croaking villain . . . a cowardly dog.*" A fight ensued between Heffren and two of David Gooding's brothers. One of the brothers, H. Clay Gooding (a Senate secretary), struck Heffren with his fists. The other, Lemuel W. Gooding, beat Heffren over the head with a cane. The Senate condemned the actions of all four men and in 1860 Heffren was denied renomination to the Senate by Washington County Democrats.[44]

Heffren did manage a nomination for a House seat, however, and returned to the General Assembly in 1861. This time the imposing, 234 pound Democrat goaded diminutive, 135 pound Republican Gideon C. Moody (Jasper County) into a challenge to duel. As the challenged party, Heffren chose bowie knives for weapons but finally settled on rifles at the insistence of his terrified opponent. Heffren and Moody traveled to Kentucky for the event and at dawn on February 4, before a shot was fired, the combatants were arrested by the sheriff. Although dueling was a blatant violation of legislative rules, the House subsequently refused

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[42] "Strangely Complicated," Indianapolis *News*, January 8, 1890; Conn file, Legislator, IHSL; Goshen *Daily Democrat*, January 6, 1931. Although Conn supported William McKinley against William Jennings Bryan for the presidency in 1900, he did not become a Republican. In 1908 he ran in the Democratic primary for governor and lost to Thomas R. Marshall.

[43] *Senate Journal*, 1858 (s.s.), 12-13; *ibid.*, 1857, p. 313; *Brevier*, 1858 (s.s.), 10-11.

[44] *Brevier*, 1859, pp. 185-86, emphasis in original; *Senate Journal*, 1859, pp. 1024-27, 1064-65; Indianapolis *Indiana State Sentinel*, February 16, 1859.

to expel either man.[45] Later, when Governor Oliver P. Morton made Heffren an officer in a regiment of Indiana troops, House Republicans objected on grounds that Heffren's "course has been seditious in its tendency" during both the regular and special sessions of 1861.[46] The fact that an abolitionist-inclined Republican colleague, Walter Q. Gresham, successfully defended Heffren against charges of entering Kentucky to fight a duel indicated the Washington County Democrat had been merely irritating, not seditious.[47]

Heffren's political career was interrupted during the Civil War because of his alleged association with the Sons of Liberty. Indicted for treason and convicted in 1864, he did not win favor with the voters of Washington County again until 1882. In that year they returned him to the Indiana House as a soft-money Democrat. At the subsequent session, Republicans dredged up all of the old wartime charges. In response, Heffren rose to a point of personal privilege. He pointed out that the Supreme Court of the United States had reversed his conviction (in *Ex parte Milligan*) and said that because of his incarceration "Democracy . . . permeated my whole system and gave me a new growth until I now tip the beam at 390 pounds." Age had not mellowed this firebrand; he ended with a challenge: ". . . supposing this all to be true, What are you going to do about it?"[48] Always defiant, Heffren was one of the more colorful lawmakers of his era, a man whose career served as an exaggerated prototype of those few Democrats whose service in the General Assembly spanned both the prewar and postwar eras.

Life in Indianapolis

John Lyle King of Madison was the envy of many of his colleagues during the long session in 1851-1852 because of the ease with which he could travel to and from home on the Madison and Indianapolis Railroad. Those lawmakers fortunate enough to have a rail link to Indianapolis traveled "on the cars" regularly. In 1851, few enjoyed such convenience; by 1871, most members were within reach of a line to the capital city; by 1889 nearly every legislator could travel by train since rail connections reached from Indianapolis to the farthest corners of the state. For instance, during his first term in 1885, Martin T. Krueger made the journey from Michigan City on the Indianapolis, Peru and Chicago Railroad. Krueger was especially impressed with the Union Station where Democratic lawmakers gathered at Tom Taggart's lunch counter between their goings and comings. When Krueger served again a half century later in 1935, the only

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[45] Moody file, Legislator, IHSL.

[46] *Brevier*, 1861 (s.s.), 243-46, quotation, 243.

[47] Gresham, *Life of Walter Quintin Gresham*, 1:133. President-elect Abraham Lincoln stopped in Indianapolis on his way to Washington while Gresham was in Kentucky defending Heffren. "And thus it was," wrote Gresham's widow, "that Walter Q. Gresham never met Abraham Lincoln."

[48] *House Journal*, 1883, pp. 184-85. Heffren did not exaggerate his girth: the *House Journal* shows an expenditure of $15 for "one large chair for Hon. Horace Heffren." *Ibid.*, 498; Indianapolis *Journal*, January 17, 1883.

change in travel he noted was taking the electric line to Hammond, where he boarded the Monon for the trip to Indianapolis.[49]

Until a railroad was available, most lawmakers traveled by stagecoach, and this could be a hazardous and trying experience. In 1851, Jacob Dice found the trip uneventful from Covington to Crawfordsville along the Crawfordsville and Company Plank Road. At that point two colleagues from Montgomery County boarded the stage. "Many a time during that ride of 44 miles to the capitol, through the woods and swamps . . . all three gentlemen of the Legislature [were] compelled to alight and assist to pry the vehicle out of the mud & mire." In traveling to and from Indianapolis during the subsequent session, the three came and went by way of Terre Haute, "taking the cars to that place and then coming by steamboat to Covington, and from C[ovington] to C[rawfordsville] by stage."[50]

Once in Indianapolis, before the advent in 1863 of streetcars pulled by mules, there were only two methods of travel—by carriage and by foot. Most members "for the sake of exercise, usually chose the latter."[51] The difficulty of travel led most lawmakers to find accommodations at one of the many downtown hotels within walking distance of the State House. Streets, the State House, and other principal buildings were lighted by gas, while lamps and candles were in general use elsewhere. A few thoroughfares, including Washington Street, were paved with cobblestones. Otherwise, streets were narrow, muddy, and impassable in inclement weather.

There were more than fifty hotels in Indianapolis between 1851 and 1890, and most of them accommodated a legislator or two at one time or another. The Palmer House, built on the southeast corner of Illinois and Washington streets in 1840-1841, was the hotel where most Democrats gathered throughout the era. This remained true even after its name was changed to the Occidental Hotel when it was improved and expanded in the 1870s. Republicans generally gathered at the Bates House, completed on the northwest corner of Illinois and Washington streets in 1853. The Bates House was unquestionably the best hotel in town during most of the era, the social center of the city year round, and the meeting place for the Republican elite during sessions. It was from a Bates House balcony facing on Illinois Street, for example, that President-elect Abraham Lincoln addressed an admiring throng as he journeyed to Washington in February, 1861. In the early 1880s, the Bates family sold the hotel to Edward F. Claypool, who ultimately built a new hotel on the site which remained a popular home-away-from-home for Indiana lawmakers until the sixth decade of the twentieth century. Other hotels that were popular with lawmakers included the Grand Hotel, opened in 1876 on the corner of Illinois and Maryland streets. It was here that Eugene V. Debs shared a room with Martin T. Krueger during the 1885 session. In 1879 the Circle House opened as a first class hotel on the

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[49] King diary, IHSL, *passim*; "Krueger Recalls Session 50 Years Ago . . . ," Indianapolis *Star*, January 10, 1935.

[50] Dice file, Legislator, IHSL.

[51] David Turpie, *Sketches of My Own Times* (Indianapolis, 1903), 133.

southeast quadrant of the Circle. And in the early 1880s, William H. English built the English Hotel and Opera House on the northwest quadrant, a facility that remained one of the finest buildings in the city through the first half of the twentieth century. In 1881, shortly after it opened, the opera house was the scene of Governor Albert G. Porter's inauguration. In 1883 the House passed a special resolution thanking English for free admissions that same evening to a performance by Lilly Langtry. "The exchequer of the members of the House has become depleted by visiting high-priced entertainments . . . since members were short of money to the high priced tickets," said the resolution.[52]

The capital city in the second half of the nineteenth century was well-known as "a Sunday town, no less from the regular observance of the day than from the church-going habits of the people." As a rule, lawmakers attended a church every Sabbath and occasionally, when "some minister of distinction" was in town, religious services were held in the hall of the House where "a quorum of both branches might be counted among the congregation."[53] Some members apparently attended church more for earthly reasons than for spiritual succor. For example, John Lyle King went to church on Sunday morning, December 14, 1851, "notwithstanding the fact that few women braved the snow to go out." He spent the afternoon reading, napping, and chatting; in the evening King "called on a lady." On Monday evening King returned to church for a "fair and supper to meet the ladies." On Tuesday he went to yet another church fair to see the ladies. On Sunday, December 21, King returned to church in the morning and "saw one of his lady friends in the evening." Christmas Day included church in the morning and supper and dancing with the ladies at the Masonic Hall. On Sunday, January 4, 1852, King was back in church in the morning and "spent the rest of the day with lady friends."

King, a Whig from Madison, was a twenty-nine year old bachelor lawyer while serving in the legislature. He stayed at the Wright House with fellow Whigs accompanied by his wardrobe "garnishing" a wall, his linens, a Webster's "large quarto dictionary, Ainsworth's Latin Lexicon, my Montaigne, [and] my scrapbook with Kossuth's speeches . . . ." He always found pleasant company in the barroom and reading room, and most evenings "piped together" with one or two colleagues before retiring. There usually was much wit and merriment on these occasions. After attending one concert "to see the women" whom he found less handsome than the ones back home ("they won't do—they won't do") he returned to the hotel and went to a room filled with legislators where "dirty stories were being told." During the session, King strolled through the lobby of the capitol "to look at the women" during the governor's speech, skipped a Whig caucus "in order to call on a young lady," and missed a lecture on phrenology while "off in search of lady friends." King even sent his free Indianapolis newspapers to "my female constituents at home," making him probably the first Indiana lawmaker to speak of female constituents.

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[52] B[erry] R. Sulgrove, *History of Indianapolis and Marion County, Indiana* (Philadelphia, 1884), 269-72; *Senate Journal*, 1881, pp. 42-43; *House Journal*, 1883, p. 806.

[53] Turpie, *Sketches of My Own Times*, 134.

Despite his preoccupation with the ladies, King found time for legislative business. He displayed a nervousness common to many freshmen when he delivered his first speech in the House on December 12. "I *know* it was one of my *poorest* efforts. My voice was pitched wrong . . . it controlled me instead of my controlling it. . . . The whole House swam dimly before my sight." After overcoming his initial fear, King proved a conscientious lawmaker. He served faithfully as a minority member of the House education committee throughout the long session that implemented the new Constitution. In 1856, King moved to Chicago where he became well-known as a Republican lawyer. In 1885, he penned "Reminiscences of the Indiana Legislature of 1851-52" at the request of William H. English. King never married, and died in Chicago on April 16, 1892.[54]

Session time was the most important time of the year in the capital city. The social scene, "composed of residents of Indianapolis, the officers of state and members of the senate and house, and their families, with a number of persons from the outlying towns and counties who came to . . . spend the winter during the legislative session," was always very busy and animated. David Turpie, who represented White County in the 1850s and was speaker of the House in 1875, said the people who came to socialize constituted a "third house." The typical visitor, according to Turpie, was "a gentleman of polished manners and address, well fitted for the social functions of his position." These functions included the duty of seeing from week to week that the various parties and entertainments did not interfere with one another or with the public sessions of the two houses. Such men knew the officers and members well, and frequently called members from their seats or buttonholed them in the corridors of the State House or on the streets. Turpie also remembered the theater and other public amusements as being "of a high order," with lectures almost every night at the Masonic Temple that were well-attended. At the same time, "the round of private parties was constant and uninterrupted until the final adjournment."[55] In the 1850s, a "levee" was hosted by the governor about every two weeks during sessions, and they always attracted "a great throng" of bipartisan revelers.[56]

By the 1870s citizens held parties during sessions at least every fortnight, sometimes every week.[57] One of the most elaborate of these parties was the "Grand Complimentary Banquet to the General Assembly of Indiana, by the Citizens of Indianapolis, at the Hotel Bates, Thursday Evening, March 1st A.D. 1877." The crowd of over 500 began to gather about eight o'clock, greeted by American flags festooned with evergreens. At about ten o'clock the band struck up a waltz, at the conclusion of which "the doors of the dining room were thrown open." The elegantly printed menu promised five kinds of oysters; fourteen cold meats (including "No Better" sugar-cured ham, spiced pigs feet, lobster au natural, mallard duck, and spiced salmon); eight cold ornamental dishes

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[54] King diary, November 29, 30, December 1, 2, 3, 5, 12, 14, 15, 16, 21, 25, 1851, January 1, 3, 4, 5, 1852, IHSL. Emphasis in original.

[55] Turpie, *Sketches of My Own Times*, 131-32.

[56] King diary, December 9, 1851, January 6, 1852, IHSL.

[57] Indianapolis *Journal*, January 3, 9, February 22, 1873.

(including buffalo tongue, beef a la mode Delmonico, and saddle of venison glazed with jelly); three salads; sixteen kinds of pastry; nine ornamental pastries; ten confections; thirteen creams and jellies; and twelve kinds of dessert. Beverages included coffee, chocolate, tea, and "Imperial Champagne."[58] After dinner came the toasts: to the governor, with Governor James D. Williams responding; to the judiciary; to the city; to the country. Speaker of the House John Overmyer responded for the General Assembly and noted that "It is a matter of supreme difficulty to speak for the one hundred and fifty members . . . [when] upon almost any subject proposed to their consideration there would be one hundred and fifty different opinions . . . ." He then gave profuse thanks on behalf of all lawmakers for the courtesies shown. The last toast was to "The Ladies," with Senator Robert C. Bell of Fort Wayne responding as "the finest-looking member." The senator included tributes to mother, sister, and wife, and concluded "to Woman, God's last best gift to man." The company then dispersed to the dance hall "where flying feet chased the golden hours away until an early hour" in the morning.[59]

Legislative revelry sometimes took an embarrassing turn, especially in the waning days of a session. For example, shortly before adjournment in 1879, bold-faced headlines in the Indianapolis *Journal* announced:

SHAMEFUL PROCEEDINGS.
Drunken Law-Makers Making a Beastly
Exhibition of Themselves in a
Variety Hall.

The story told how twenty-five or so legislators engaged in a "shameful orgie" at a "disreputable variety hall" on East Washington Street, "getting noisily drunk," climbing on chairs, yelling and howling all sorts of obscene language in front of a half dozen streetwalkers. The morning after the story broke, Representative Joseph Davis (Boone County) demanded that the newspaper supply the names of the revelers. Although many members admitted being at the hall, they denied that they were drunk. The owner of the hall stated that they had not been "boisterous, any more than any assemblage of people usually are when they are immensely pleased with an entertainment . . . ."[60]

Drunkenness was apparently common among some members despite the legislature's almost constant preoccupation with temperance laws. For example, in 1871 a resolution by Henry C. Bruner (House, Jennings County) that any member or appointed officer intoxicated during a session should forfeit his position and compensation was tabled. In 1872 a similar resolution by Nathan T. Butts (House, Randolph County) was passed but apparently never acted upon.[61] The

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[58] The menu is preserved in the Austin H. Brown Papers, Indiana Division, ISL.

[59] "The Legislative Banquet," Indianapolis *Journal*, March 2, 1877.

[60] Indianapolis *Journal*, March 27, 29, 1879; Indianapolis *Sentinel*, March 28, 1879; *House Journal*, 1879 (s.s.), 1417-18. Davis' resolution was postponed until Monday morning when it was to be a matter for the committee of the whole. The following Monday, March 31, the matter was never taken up before the House adjourned *sine die*.

[61] *House Journal*, 1871, pp. 17-18; *ibid.*, 1872 (s.s.), 21.

evening of adjournment was frequently reserved for special celebration inside the State House. The Indianapolis *News* noted improvement since the days of the first Constitution when adjournment was "like a sort of dirty 'love-feast' when each member would tell . . . a joke that would have better suited the company of the Decameron." According to the story, "doorkeepers had buckets of whiskey in the committee rooms, and a sober member was a rarity." Rolls of paper, books, and wafer boxes were thrown about, while dozens of men spoke, sang, or scuffled all at once. Once a jackass was hauled in and seated at the speaker's stand. "We have no such scenes now nor have we had since 1849 or 1850," the paper concluded, "but that is the only improvement we know of."[62]

The last day of the 1872 special session witnessed a particularly harsh partisan debate before the session ended in a love feast of humor and nonsense. The resolutions offered at the very end included one requiring the committee on temperance to stand treat and another in favor of "shaking hands across the bloody chasm." When George Wolfin of Vanderburgh County was called upon for a speech, he responded in German. When Joseph Lawson, who was not even a member of the legislature, was asked to give a recitation from "Richard III" he responded with "now is the winter of our discontent." Other resolutions offered and taken by consent requested the committee of the whole to draw the whole in after them; asked a member from Vigo County to inform the House what he knew about courtship and marriage in general; asked that a special committee report on "such legislation as may be necessary to promote the emigration of insurance solicitors and the spontaneous growth of sewing machine agents"; and asked that the gentleman from Harrison inform the House "what he knows about John Morgan's mule."[63]

The dilapidated condition of the State House was one factor that undoubtedly helped cause the raucous behavior as sessions wound to an end. Lawmakers were more than ready to celebrate after working sixty-one days in chambers marked by ugly and dangerous ceilings because the roof leaked constantly. At the same time ventilation was non-existent and the walls were crumbling, in constant need of patching and repair. A Senate committee reported in 1857 that probably no capitol in the Union presented conditions so deplorable and inconvenient. "The public business, the honor of the people, and the safety of the most important State papers . . . demand a speedy remedy of these evils," the committee concluded.[64] No action was taken until the 1870s, however, and by then the situation was desperate. In 1871, Richard R. Stephenson (Hamilton County) complained publicly about the foul smell as he compared the House to "the Black Hole of Calcutta."[65] In 1875 Andrew J. Boone's "health became permanently impaired early in the session . . . and from the effects of the impure

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[62] Indianapolis *News*, March 5, 1877.

[63] *Brevier*, 1872 (s.s.), 367-68.

[64] *Senate Journal*, 1857, pp. 552-53.

[65] Indianapolis *Sentinel*, January 16, 1871.

air of the old Senate chamber he never recovered." Boone died at his home in Lebanon on July 12, 1875, shortly after the session ended.[66] Committees of both houses and newspapers of both parties demanded action almost every session, with the Indianapolis *News* summarizing the case in 1877 when it described the State House as "the ugliest structure that ever shamed a noble model . . . . It is unsafe, crumbling, inadequate and ugly . . . ."[67]

The General Assembly finally acted on March 14, 1877, authorizing a new State House that would be "in keeping with the dignity of the State," and not to exceed $2 million in costs. A bipartisan building commission of four plus the governor examined the new capitol in Connecticut, public buildings in Ohio, Michigan, and Illinois, plus the new treasury building in Washington, D.C. They then hired Edwin May, who had designed the courthouses at Shelbyville, Brookville, Greensburg, Vincennes, and Fort Wayne, as chief architect. Speaker John Overmyer, in his valedictory to the House, spoke for the entire legislature when he said "We have so wrought that no future Assembly of the State will be compelled to sit in these dingy halls."[68] Construction began in October, 1878, but progress was delayed by a series of lawsuits initiated by architects who did not win the bid. Construction resumed after a legislative investigation during the 1879 session found nothing amiss in the awarding of the contract.

From 1879 through 1885 the Indiana General Assembly convened for a second time in the Marion County Courthouse, a building only completed in 1876 and occupying the square bounded by Washington, Delaware, Market, and Alabama streets. The legislature rented its quarters, with the House convening in the Criminal Court room on the third floor, the largest in the building, and the Senate in the Superior Court room to the east.[69] Since there was no extra space for legislative use, the General Assembly rented rooms at nearby hotels for its committees.[70] During these years there were also repeated instances of partisan wrangling over construction details as lawmakers looked forward to occupying their own new quarters.[71] Construction continued unimpeded, however, and by 1887 the building was sufficiently finished that the legislature convened

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[66] Boone file, Legislator, IHSL; Leander M. Crist, *History of Boone County, Indiana* (2 vols., Indianapolis, 1914), 1:220.

[67] Indianapolis *News*, January 30, 1877. For other press criticisms, *ibid.*, January 22, 1873, January 28, February 16, 1875; Indianapolis *Journal*, January 22, 1873, February 24, 1875. For examples of legislative criticism, *House Journal*, 1872 (s.s.), 450; *Senate Journal*, 1872 (s.s.), 522-23.

[68] *Laws*, 1877 (s.s.), 68-73; "The State Capitol," typescript in Federal Writers Project of the W.P.A. (Marion County), Indiana State University Library, Terre Haute; *House Journal*, 1877 (s.s.), 1258.

[69] In 1881 the General Assembly was charged $1,500 by the Marion County commissioners for rent, gas, and water. *House Journal*, 1881, pp. 1643-45. For details on the new courthouse, Sulgrove, *History of Indianapolis*, 45-46, 249-50.

[70] *House Journal*, 1879, pp. 99-100.

[71] For one example, see the debate touched off in 1881 when Governor Albert G. Porter criticized Democrats for failing to place the roll of Civil War dead in the cornerstone of the new building. *Brevier Reports*, 1881, pp. 35-36.

in it. The State House was completed on October 2, 1888, at a total cost of $1,980,969, a rare example of a public building erected for less than the original estimate.

Almost all of the stone used in the building was taken from quarries in Indiana. The plan of the four-story structure (including the street level basement) was that of a Greek cross. The first story, fourteen feet above ground level, contained the offices of the governor and other leading executive and administrative officials. In the east wing of the second floor was the Hall of the House of Representatives and the speaker's offices. In the west wing was the Senate chamber, the lieutenant governor's office, and the press rooms. The Supreme Court room, consultation rooms, judges' offices, and law library stood at the north end. The south end contained office space for boards and bureaus. The galleries of the Senate and House chambers occupied the third floor, along with the Appellate Court, and additional office space. The basement floor contained the state library plus custodial and miscellaneous offices.

The facility was just two blocks west of the business center of Indianapolis. From the beginning, the surrounding grounds were beautifully landscaped with native trees, wide lawns, and decorative shrubbery. In the years since its dedication, commemorative statues have been placed at vantage points. These include the bronze statue of Democrat Thomas A. Hendricks, dedicated in 1890, which stands at the southeast entrance, supported by statues representing History and Justice. The bronze statue of Republican Civil War Governor Oliver P. Morton, dedicated in 1907, stands at the Market Street entrance flanked by two balustrades bearing bas-reliefs of war scenes. A statue of Robert Dale Owen, presented in 1891 by the women of Indiana, stood at the south entrance until it was stolen. West of the south part of the State House is a bronze bust of Christopher Columbus, presented in 1920 by the Italians of the state.[72]

Legislative Miscellany

An Indianapolis newspaper estimated in 1879 that about 1,500 bills were introduced at each session of the General Assembly, with perhaps 150 of them debated and about 100 becoming law. The newspaper felt there was thus a great waste of time "and at least $75,000 of legislative expenses go just as idly."[73] There was much time wasted at each session because every member was entitled to his say on any issue. In addition, practically every member had a pet bill to introduce either for himself or on behalf of some interested constituent. This was true in the 1850s; it remained true for the entire era.

In 1859 proposals for medical legislation held the attention of each house for a while. A certain Dr. John Hughes petitioned the Senate to grant him

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[72] "The State Capitol," W.P.A. Federal Writers Project, Indiana State University Library.

[73] Indianapolis *News*, February 18, 1879. The press could also waste time and space on legislative matters. For example, in 1872 one newspaper published the age, height, and weight of every senator and concluded "If . . . Senators were piled in an erect attitude one above the other, they would make a symmetrical and beautiful monument 263 feet high." Indianapolis *Journal*, November 23, 1872.

exclusive rights to a remedy for "sundry diseases incident to man and beast, including milk-sick." The petition was assigned to a select committee which issued a three page report recommending that senators from Randolph and Huntington counties be authorized exclusively to sell, barter, and vend Dr. Hughes' "paciffick" in Indiana. The report recommended further that, in case of sudden attack of "milk-sick," the two senators be authorized to use as much of the medicine as might be necessary for their relief. If the two earned more than $10,000 in commissions, the excess must be paid to the sinking fund for school purposes; if the common schools could not use all of the excess, the overlap was to go to the United States Treasury for the purchase of Cuba. The Senate concurred in the committee report.[74] In the House, Lewis Prosser of Brown County was disturbed by an advertisement for "Dr. Duponco's Golden Periodical Pills for Females, infallible in correcting Irregularities, . . . Removing Obstructions, from whatever cause, and always successful as a preventive." Prosser asked for legislation making it unlawful to advertise or sell any medicine, instrument, or appliance for the prevention of conception or the procurement of an abortion. His proposal was voted down, after the advertisement was entered in the *Journal* in its entirety.[75]

So far as is known, polygamy was never practiced in the state of Indiana and neither the state House of Representatives nor Senate ever had a committee on foreign relations. Nonetheless, Representative Stanley W. Edwins of Madison County introduced a concurrent resolution in 1881 asking Congress to prohibit polygamy as "grossly revolting and tending to destroy that respect and reverence which every nation and people should feel toward the marriage relation between one man and wife." Henry Clay Meredith (Wayne County) immediately moved that Edwins' proposal be referred to the committee on foreign relations, and it was so ordered.[76] In the Senate that year, Frederick W. Viehe (Knox County) noted that although the state Constitution made the governor commander-in-chief of the military and naval forces, Governor Albert G. Porter had made no mention of the army and navy of Indiana, especially the latter, in his report to the legislature. Viehe moved that the governor be directed to make such a report to the next General Assembly, and the motion carried.[77] In 1885 James R. Overman (Lawrence County) moved that "the manner in which Mr. Rose calls the roll is offensive to the members, and, unless he can do better, that he be requested to resign." The motion was tabled.[78]

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[74] *Senate Journal*, 1859, pp. 1042-44. In spite of the facetious nature of the committee report, there was nothing funny about milk-sick or the many proposals to cure it. The symptoms were described in 1847 as "ungovernable thirst, great prostration, hiccup, stupor, etc., etc., death." The disease affected both animals and persons, and was prominent in Indiana and surrounding states during the nineteenth century. See R. Carlyle Buley, *The Old Northwest: Pioneer Period, 1815-1840* (2 vols., Indianapolis, 1950), 1:248-49.

[75] *House Journal*, 1859, pp. 459-60.

[76] *Ibid.*, 1881 (s.s.), 1450.

[77] *Senate Journal*, 1881 (s.s.), 1058.

[78] *House Journal*, 1885 (s.s.), 1387.

Democrat Martin T. Krueger's real estate and insurance business in Michigan City suffered so in 1885 that he vowed never to serve again in the General Assembly. The Great Depression of the 1930s caused him to change his mind, and he returned to the House from 1931 to 1937. "Legislators have lost their individuality—that's the biggest change," said Krueger after his second service. With the governor and the majority both of the same party in the 1930s, legislation was voted on "by proxy. . . . Theirs [is] not to reason why, theirs [is] but to holler 'aye,'" Krueger concluded. Also, according to Krueger, in 1885 there was "no such thing as a lobbyist." The leaders of the parties saw to the bills.[79] If Krueger remembered accurately, then the session of 1885 was the only one of the era where lobbyists were absent. At almost all other sessions lobbyists of various stripes seemed omnipresent.

The Lobby or Third House

The term "Lobby" was commonly used in the United States by the middle of the nineteenth century to describe those persons who frequented the approaches to legislative chambers for the purpose of addressing individual argument to lawmakers or otherwise to influence votes. Such persons were known as "lobbyists" and one who pursued lobbying as a full-time occupation in Vermont during the 1850 session of that state's legislature said "We had come to be known as the 'Third House.' We met daily in the State Library, and lampooned everybody who deserved our attention, especially the members of the two *lower* houses."[80] This "Third House," composed of men who for hire worked to help or hinder legislation, convened in Indiana at least as early as the 1830s. In 1857, when a Senate select committee investigated the circumstances surrounding passage of the 1855 act that chartered a new state bank with branches, it uncovered a volume of incriminating evidence against members of both houses. The committee's report also offered one of the first comprehensive examinations of how lobbyists in Indiana sought to influence legislation.

According to the sworn testimony, lobbying to see that the right bill became law began early in 1854 when the charter of the Second State Bank was about to expire. The effort was led by Judge Thomas L. Smith of New Albany, who drafted a bill at the behest of some officers of the bank, a few legislators, and a host of outsiders who hoped to profit from a new bank. Ebenezer Dumont, president of the Second State Bank, testified that Smith wanted $60,000 "placed at the disposal of those who proposed to take a contract of procuring a recharter." Dumont added that Smith thought the amount necessary because it was "folly to think of passing a bank bill through a legislative body, simply by argument." When the 1855 session convened, the effort intensified. "The

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[79] Interviews with Krueger, Indianapolis *Star*, January 10, 1935, July 25, 1943.

[80] E. L. Chittenden, "Personal Reminiscences," cited by Robert Luce, *Legislative Assemblies: Their Framework, Make-up, Character, Characteristics, Habits, and Manners* (Boston and New York, 1924), 369, emphasis in original; for the origins of lobbying, and its development nationally, 367-99.

contest was one of many days duration," said Dumont. "I saw Judge Smith, so to speak, here, there and everywhere—for I was there too." In other words, Smith and his cohorts were omnipresent—at the Bates House, on the street, in the Senate chamber, and in the Hall of Representatives. In describing this activity, the select committee offered a classic description of how some lobbyists worked:

> The third stage developed a concerted scheme to engineer the bill through both Houses, and was characterized by a substantive lobby influence, systematically exercised in the halls of the House and beyond them, and which was potent in securing the passage of the bill. The outsiders here present themselves as a formidable combination of talent, influence, wealth and legislative experience, all directed in a skillful manner to promote the passage of the bill.

The $60,000 was expended mostly on the expenses of members of this "formidable combination" who cajoled and flattered lawmakers unceasingly during the session to see that the bill passed in the essential form of Judge Smith's draft. The resultant law, passed over a veto by Governor Joseph A. Wright, occasioned the most serious legislative scandal of the era. Although apparently no one accepted a direct bribe, several lawmakers were offered exclusive chances to subscribe to stock in the bank and its branches in return for their vote. Despite the incriminating evidence compiled by the Senate inquiry, no action was taken against culpable lawmakers. The General Assembly also took no action to curtail or regulate activities by the Third House.[81]

In 1861 the Indianapolis *Weekly American* noted that lobbyists were conducting business as usual: "There is no better qualification for a good legislator than to be pliant in the lobby." The paper added that it knew of men who boasted they could make more money and carry more measures in the lobby than they could in the legislature proper. Such men had "a large amount of money" to control the legislature, not so much by bribery as by "wearing out." The reaction of Representative Joseph A. Woodhull (Steuben County) showed that lawmakers could be sensitive to such criticism. Woodhull offered an amendment to a resolution regarding German language newspapers. His amendment, which would have rescinded the House order to distribute the *Weekly American* to members, was tabled after a heated debate.[82] In 1879 James H. Willard (House, Floyd County) pointed to the continued persistence of the lobby. In the midst of a spirited exchange over a bill that would tax out-of-state insurance companies, Willard observed "there was always with the Legislature two lobbies—the insurance and the railroad."[83]

Railroad companies constituted the most successful lobby of the era because they could and did provide free transportation to members. For example, at the

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[81] *Journal of the Bank Investigating Committee . . . 1857* (Indianapolis, 1857), quotations from Dumont's testimony, 381, 382, 387, committee description of lobbying, 392. The majority report, pp. 377-451, summarized 375 pages of testimony by lawmakers and other individuals involved in the affair. For the provisions of the act, the scandal, and the history of the bank, see above, p. 242.

[82] *Brevier*, 1861, pp. 115-16.

[83] *Ibid.*, 1879, p. 227.

height of the anti-railroad excitement fostered by the Grange in 1875, "an informal meeting" of two committees of the General Assembly gathered at the Bates House with officials of Indiana railroads. The meeting was initiated by Representative Charles E. Crane (Knox County), chairman of the House committee on railroads. At issue were one bill that proposed to fine railroads $200 a week if they did not fence their track and another that prohibited rate discrimination against local shippers. Melville E. Ingalls, president of the Indianapolis, Cincinnati and Lafayette Railroad Company, spoke for the railroads. He denounced the Grange but admitted a long-haul, short-haul abuse existed. At the end of his speech, Ingalls pulled from his pocket a bill "which is the law now in force in Massachusetts" and said it would remedy the situation.[84] Throughout the era, railroad companies were generally satisfied with Indiana's railway legislation.

Strikes by coal miners activated the coal operators' lobby in 1875. Operators from Clay County sponsored a series of meetings with key legislators at the Occidental Hotel to combat charges that owners were unfair to labor and that mine shafts were undermining the streets in Brazil. After a concerted effort, proposed legislation was modified to meet the owners' objections.[85]

County officials constituted a formidable lobby whenever their interests were threatened. Throughout the era, there were efforts to pay county officers a salary instead of allowing them to collect fees. Richard R. Stephenson (Hamilton County) led a "crusade" against the fee system in 1869, but saw his salary bill defeated by "a well-directed lobby" of alarmed officeholders.[86] Ten years later James D. Osborne of Elkhart County went to the legislature with the "avowed purpose of reducing the fees and salaries of county officers . . . ." His bill, which substituted salaries for fees, passed by more than a two-thirds vote in the House on first and second readings. Then county officers "flocked to the House and induced a change in sentiment . . . ." Osborne complained from the floor that the House was filled day after day with men lobbying for pet measures while "voices in the lobby . . . voted to swell the yeas and nays . . . ." Osborne's resolution that only members, officers, employees of the House or Senate, and newspapermen could be on the floor led to a spirited exchange before Speaker Cauthorn stopped debate by noting that House rules were adequate to "correct these evils." Osborne's salary bill was then defeated on third reading. Before leaving town, county officers organized an association at Indianapolis with a treasurer and ample funds to look out for their interests. "The organization has been kept up ever since for a like purpose," Osborne wrote in the late 1880s.[87]

Public employees were noted for playing political hardball. In 1873 Edward King (House, Marion County) charged that a trustee of the Deaf and Dumb School threatened to hold up King's bills unless the representative supported a sale of 400 acres of school property to set up an experimental school for retarded

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[84] Indianapolis *Journal*, February 16, 1875.

[85] *Ibid.*, February 19, 23, March 2, 1875.

[86] Stephenson file, Legislator, IHSL.

[87] *Brevier*, 1879, p. 211; Osborne file, Legislator, IHSL.

children. According to King, an Indianapolis realtor named William M. Jones promised that King's bills "would all go through" if only he supported the sale.[88] In 1879 Ebenezer Henderson, a former state senator and state auditor, begged and threatened members "shamelessly" on the floor while the House considered a motion to rescind an investigation of the auditor's office. Bernard Schweitzer of Owen County voted no on rescinding, "whereupon Mr. Henderson, standing at some distance, scowling and gesticulating, shrieked out: 'Schw[e]itzer, you voted wrong; you voted no; vote to reconsider—vote to reconsider, I tell you.'" The Indianapolis *News* opined that the House would fall short of its duty if it did not rebuke this "shameful insult put upon it."[89]

Other groups which organized officially for the purpose of influencing legislation included the Sportsmen's Association of Indiana, founded in 1875 to lobby the legislature on fish and game laws; and the Manufacturers' and Miners' Association of Indiana, which was also founded in 1875.[90] John T. Beasley, a Democrat from Sullivan County, proved in 1889 that organized pressure groups were accepted as an ordinary adjunct to the legislative process right to the end of the era. In that year Beasley moved to provide space in the State House for the Inter-State Federation of Coal Operators and Miners. According to Beasley the group "are at this time in this city for the purpose of examining, and, if possible so to do, agreeing upon matters embraced in bills now pending in this General Assembly, proposing legislation affecting the interests of such operators and miners . . . ." The *House Journal* notes only that the motion was "adopted."[91]

Six thousand three hundred sixty-seven separate individuals served in the Indiana General Assembly between 1816 and the short session of 1986. Of this total, 3,753 men served during the nineteenth century; 2,727 people served in the twentieth century, including eighty-one women. (One hundred thirteen men served in both centuries.) Ninety-four per cent of the nineteenth century lawmakers were born in the United States; the states of Ohio, Virginia, Kentucky, and Pennsylvania contributed the largest number of Hoosier lawmakers until the 1870s. Native-born Hoosiers began to dominate the General Assembly in the 1880s as slightly more than 50 per cent of all lawmakers during that decade were born in the state. The percentage of those born in the state rose to nearly two thirds during the 1890s and in the twentieth century better than three out of four (77 per cent) have been born in Indiana. Except for six who were born in Canada, the foreign-born in the nineteenth century came from the countries of northern and western Europe, with Ireland and Germany contributing better than fifty each. Northern and western Europe also provided a majority of the

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[88] Another representative from Marion County, Edward T. Johnson, supported King's charges. See story and editorial in Indianapolis *Journal*, March 7, 1873.

[89] Indianapolis *News*, March 1, 1879.

[90] *Ibid.*, January 29, February 3, 1875.

[91] *House Journal*, 1889, p. 412.

fifty-nine twentieth century lawmakers who were born abroad, with the rest born in Slavic countries, the Austro-Hungarian empire, or Italy.

Farming was the dominant occupation during the nineteenth century, with 43 per cent of all who served deriving their livelihood from the soil. Lawyers were the second most numerous, with 29 per cent practicing law at the time they served. Although these occupations remained the two largest for lawmakers during the twentieth century, their positions were reversed. Better than one out of every four lawmakers (26 per cent) were lawyers between 1900 and 1986. During the same years farmers declined to 19.5 per cent of the total as urbanization and industrialization gave increased representation to the cities. The shift in population to urban areas also meant a noticeable difference in the ethnic composition of the General Assembly. From 1816 to 1930, Americans of English, German, Irish, or Scandinavian derivation dominated the legislature to the near exclusion of those of other ancestry. Since 1930, these groups have remained in the majority but ethnic minorities have steadily increased in number. For example, only four black Americans served prior to 1930. Since 1933, thirty-six lawmakers of African-American ancestry have served and descendants of Slavic, Italian, and Hungarian immigrants have become increasingly numerous. Marion County and Lake County have sent most of these minority group representatives to Indianapolis, with Lake County also contributing two lawmakers of Mexican-American ancestry during the most recent past.

Better than one out of every four persons (26 per cent) who have served in the Indiana General Assembly whose religious affiliation could be determined, belonged to the Methodist church.[92] The number of Methodists has remained nearly constant through all eras, constituting 27 per cent of pioneer legislators whose religion was determined; 23 per cent of those who served between 1850 and 1890; and nearly 29 per cent of all who have served since 1890. Presbyterians ranked second in the General Assembly with 12 per cent of the members in both centuries adhering to that church. Disciples of Christ (Christian Church) attracted the third largest number of lawmakers in each century, numbering 8.5 per cent in the nineteenth century and just over 11 per cent in the twentieth. Baptists ranked fourth overall, with 6.5 per cent of those in each century belonging to that church. Collectively, 3,269 of the 5,161 Indiana lawmakers whose religious affiliation could be determined (an astounding 63 per cent), belonged to one of these four churches. According to the closest student of the relationship between religion and lawmaking in the Indiana legislature, members of each of these churches "were concerned with the moral behavior of all persons in society, not just their own membership. They were also willing to use government to enforce this morality, because they did not view church and state as belonging to separate spheres."[93]

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[92] The religious affiliation was determined for 2,649 of the 3,753 legislators (70.5 per cent) who served during the nineteenth century, and for 2,512 of the 2,727 legislators (92 per cent) who served during the twentieth century.

[93] Philip R. VanderMeer, *The Hoosier Politician: Officeholding and Political Culture in Indiana,*

Conversely, the so-called "Ecclesiastical denominations" (including Roman Catholics, Missouri, Wisconsin, and Iowa Synod Lutherans, and Episcopal churches) constituted distinct minorities in the legislature during most eras. "Although sharply critical of sinfulness, these churches did not seek to perfect individuals or society, believing that mankind was limited by Original Sin . . . ."[94] The overwhelming numerical superiority of Methodists, Presbyterians, Disciples of Christ, and Baptists during the first 150 years of the General Assembly helps explain the persistence of laws regulating private behavior during those years. By the same token, the increasing number of members from "Ecclesiastical denominations" since the 1930s helps explain the trend toward liberalization of such laws during the last half century. For example, Roman Catholics numbered less than 1 per cent of nineteenth century lawmakers. In the twentieth century, however, 10 per cent of those elected to the General Assembly have been Catholics, and since 1930, Catholics have replaced Presbyterians as the second most numerous denomination for lawmakers. (For a breakdown of the birthplaces, occupations, and religious affiliations from 1816 to 1984, see Appendix A, Tables 4, 7 and 13.)

1896-1920 (Urbana and Chicago, Ill., 1985), 103. Although VanderMeer's study is limited to only the quarter century of the Progressive Era in Indiana politics, his analysis of religion as a factor in Hoosier lawmaking is the most definitive in print. His findings in Chapter 3, "Religion, Ethnicity, and Politics," 96-145, are generally valid for the whole of Indiana history.

[94] *Ibid.*, 100.

Part III

THE EARLY MODERN PERIOD
1890 to 1930

Chapter 9
The Setting and the Major Issues

The general assemblies between 1890 and 1930 convened during an era of transition for Indiana from an agricultural, predominantly rural society to an urbanized, industrialized state. There were just over two million Hoosiers in 1890, and 73.1 per cent of them lived on farms or in communities of less than 2,500 people. In 1920, as population reached 2.9 million, a bare majority of 50.6 per cent lived in cities. As the state entered the Great Depression decade, population reached 3.2 million, 55.5 per cent of them urban dwellers. During the four decades the general shift of population was northward and to cities, at the expense of the largely rural counties of southern Indiana. The growth of cities was enhanced by a large migration from other states and an increase in European immigration.[1]

The steam railroad system, which crisscrossed the state by 1890, remained a dominant form of transportation and helped stimulate the urban and industrial growth. Its major rival, the electric railroad, first developed as a form of city transit in the 1880s. Electric railroads extended into the countryside in the 1890s and by 1900 dominated intrastate travel. Over 2,600 miles of electric railway lines were in operation in 1920, with Indianapolis serving as "the hub of the largest peripheral interurban network in the United States . . . ." At the heart of the system stood the Traction Terminal Building. Built in 1904 on Market Street between the Circle and the State House, it accommodated nearly 400 cars that entered and left the capital city daily, with deluxe service on longer runs including parlor, dining, and sleeping cars.[2]

In 1920, when European immigrants totaled 5.2 per cent (151,328 people) of Indiana's population, the native-born, white, and mostly Protestant segment stood at 92.1 per cent—"the highest proportion . . . in the entire nation." Although Germans remained the largest foreign-born and foreign-descended stock, other representatives of the older migration from northern Europe declined. Thus, by 1910 Polish and Hungarian immigrants outnumbered new arrivals from Ireland and England. These newer immigrants clustered in the heavily industrial Calumet Region of northwestern Indiana where, along with Italians, Czechs, Yugoslavs, Greeks, and Russians, they formed the bulk of the unskilled labor pool. While small in proportion to population, because they were concentrated in certain cities, these newer foreign-born citizens exercised political influence. By 1910, for example, a majority of the residents of East Chicago and Whiting, nearly half of Gary, and a quarter of Hammond and South Bend had been born abroad.[3]

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[1] For population tables by decade, see Clifton J. Phillips, *Indiana in Transition: The Emergence of an Industrial Commonwealth, 1880-1920* (Indianapolis, 1968), 363, and James H. Madison, *Indiana Through Tradition and Change: A History of the Hoosier State and Its People, 1920-1945* (Indianapolis, 1982), 20.

[2] Phillips, *Indiana in Transition*, 224-61, quotation, 256.

[3] *Ibid.*, 368-69.

At the same time, blacks who migrated from the rural South joined with the older black settlers to account for 2.8 per cent of the population in 1920. While they were concentrated in the Calumet Region and in Indianapolis, a few blacks settled in South Bend, Fort Wayne, Anderson, Kokomo, and Muncie. The blacks and newer European immigrants bypassed most of the rest of the state: blacks because of "sundown" towns where they had to leave by sunset, European immigrants because they sought jobs in industrial towns. The immigration of both into Indiana was slowed by the nativist hysteria of the 1920s and the Great Depression of the 1930s.[4]

Indianapolis remained the largest city, growing from just over 105,000 in 1890 to 364,161 by 1930. Cities that reached or passed the 100,000 mark by 1930 included Fort Wayne with 114,946 residents, South Bend with 104,193, Evansville with 102,249, and Gary with 100,426. Gary, which did not exist until 1906, had 55,378 inhabitants by 1920. The city then grew by 81.3 per cent in the 1920s to become the fourth largest in the state. The cities of Hammond, East Chicago, and Whiting constituted a contiguous metropolitan area directly west of Gary in Lake County. Each showed growth during the era similar to that of Gary: Hammond increased from 5,428 people in 1890 to 64,560 by 1930; East Chicago from 1,255 to 54,784 during the same years; and Whiting from 1,408 to 10,880. Collectively, these three cities plus Gary constituted a metropolitan area that nearly equaled Indianapolis in size. Terre Haute was the largest city with less than 100,000 population, numbering 62,810 inhabitants in 1930, more than double its population of 1890. Muncie with 46,548 people and Anderson with 39,804 were the next largest cities by 1930, while Elkhart, Kokomo, and Richmond each just exceeded 32,000 inhabitants by the same year. These last five cities had grown from between 8,261 in Kokomo and 16,608 in Richmond in 1890. Mishawaka, Lafayette, and New Albany were the only other cities in Indiana to exceed 25,000 people by 1930.[5]

The Standard Oil Company refinery, built at Whiting in 1889, initiated the industrial boom in Lake County. Industrialization was accelerated in 1901 when Inland Steel Corporation located a major plant at East Chicago, and was confirmed by the decision of the United States Steel Corporation in 1905 to build Gary, named for Judge Elbert H. Gary, the corporation's chairman of the board. Meatpacking was important in Hammond until 1901 when a fire destroyed the G. H. Hammond Company plant. Indianapolis, which remained the industrial as well as the political capital, was important for meatpacking and as a center for the new automobile industry.

South Bend, due mainly to the success of the Studebaker Corporation in building automobiles, grew to 53,684 people by 1910. By 1920 automobiles were being manufactured in more than thirty Indiana cities, and important subsidiary companies included Warner Gear at Muncie, Remy Electric at Anderson, and

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[4] For the growth of black population and its location, see Madison, *Indiana Through Tradition and Change*, 7-9.

[5] U.S. Bureau of the Census, *Fifteenth Census* (1930), *Population*, 1:330-32.

the Prest-O-Lite Head Lamp Company at Indianapolis.[6] This last was owned by industrialist Carl Fisher, one of the founders of the Hoosier Motor Club (1902), the Indianapolis Motor Speedway (1911), and a lobbyist for a state highway system. One measure of the impact of the automobile on the state was an auto registration law under which 4,253 vehicles were registered in 1905. In 1920, when a state Highway Commission had evolved to implement Fisher's demand for state highways, 333,067 automobiles were registered in the state.[7]

Distilling, especially important in Lawrenceburg, Terre Haute, and Hammond, ranked third in value of products among the state's industries in 1900. In view of the constant temperance agitation, distillers were naturally active lobbyists in the General Assembly. Brewers, then serving mostly local markets in larger cities, were also active lobbyists, as were cigar manufacturers whose products were worth $10 million annually by 1919.[8] The latter found common ground with distillers and brewers against moralists who wanted to prohibit the manufacture and sale of tobacco products. Indeed, the tobacco lobby occasioned a bribery scandal in 1905 when the legislature banned cigarettes.

When the law passed the House on February 22, Ananias Baker, a Republican from Fulton County, explained his vote for the bill by opening a sealed envelope "from the cigarette trust" which contained $100 that Baker "waved before the faces of the astonished members." When Baker refused to say who sent the money, Speaker Sydney W. Cantwell ordered an investigation. The committee discovered that former Republican Senator Oscar A. ("Cigarette") Baker (Grant County, 1893-1895), a lobbyist for tobacco growers, had tried to bribe Ananias Baker. The House then appropriated $5,000 to apprehend Oscar Baker and the Marion County Grand Jury indicted him for bribery.[9] But Oscar Baker was not easy to find. On February 23 he fled to Toronto, Canada, and then spent several years "traveling" in Europe. When he returned to Marion after Ananias Baker was dead, the charges were dropped. This was the end of the cigarette bribery case.[10]

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[6] For the growth of Lake County, Powell A. Moore, *The Calumet Region: Indiana's Last Frontier* (Indianapolis, 1959), 173, 193-96, 230-31, 257-62; for the growth of other cities, Phillips, *Indiana in Transition*, 199, 263-65, 277, 304, 314-16.

[7] For the number of automobile registrations, Phillips, *Indiana in Transition*, 265-66; for automobile registration law, *House Journal*, 1905, pp. 716, 1638, *Senate Journal*, 1905, p. 621, *Laws*, 1905, pp. 202-5. An Indiana Highway Commission was appointed by Democratic Governor Samuel M. Ralston in 1914. In 1917 Ralston's commission was disbanded as the Indiana State Highway Commission was created by act of the Republican-controlled General Assembly. The act was repealed in 1919 when the legislature created a new state Highway Commission. *House Journal*, 1915, pp. 40-41; *Laws*, 1917, pp. 253-73; *ibid.*, 1919, pp. 119-40.

[8] Phillips, *Indiana in Transition*, 288-90.

[9] *Senate Journal*, 1905, pp. 674-75; *House Journal*, 1905, pp. 1398-1400. For the bribery attempt, *ibid.*, 1400, 1539-41, and Indianapolis *News*, February 22, 23, 24, 25, 27, 28, 1905. The anti-cigarette law was repealed in 1909 after the Indiana Supreme Court held that it was not unlawful for a man to possess or smoke cigarettes. *Senate Journal*, 1909, pp. 1047-48; *House Journal*, 1909, pp. 1086-87.

[10] Oscar Baker had lived a double life long before he was a lobbyist for tobacco growers.

The drug industry was also important during the era, with Eli Lilly and Company of Indianapolis becoming a world leader in the production of "ethical" or prescription drugs. Lilly, founded in Indianapolis in 1876, passed the one million dollar mark in annual sales in 1905. More important than Lilly in its impact on the General Assembly was Miles Laboratories, established in Elkhart by Dr. Franklin Miles in 1884 to manufacture patent medicine compounds. After the Beardsley family took over the firm in 1890, Elkhart County's seat in the state Senate became a family fiefdom: the service of four Beardsleys spanned the first five decades of the twentieth century. Each was a president and director of Miles Laboratories, and each was prominent in state and national Republican politics.[11]

Although the balance shifted from a rural society in 1890 to an industrialized state by 1930, the General Assembly remained a bastion of rural interests in which a steadily declining farm population was increasingly over-represented at the expense of a steadily increasing city population. Partisan politics, not population shifts, dictated apportionments with rural ascendancy the one constant whether Democrats or Republicans did the dictating. As a result, appeals to such old-fashioned virtues as hard work, clean living, and temperance dominated legislative deliberations. Since these were the exact virtues championed by the 92.1 per cent white, native-born majority, the regulation of public morality, led by the prohibition movement, consumed the most time. Moralists became so dominant in the General Assembly in 1925, that in their determination to make Indiana "bone dry," they took the state beyond the strictures of the Eighteenth Amendment. Their triumph was hastened by two seemingly unrelated events: the celebration of the state's centennial in 1916, followed in 1917 by American participation in World War I. The centennial and the war reinforced and strengthened the state's historic suspicion of foreigners and ethnic minorities just as the numbers of these people were increasing. John Higham, the historian of American nativism, stated that 1915 and 1916 were transition years nationally to a new ideology of "100 per cent Americanism." This ideology grew to full scale with

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In 1897, he secretly divorced his wife and married a Russian countess who bore him a child in Sturgis, Michigan. For a year, Baker commuted between the countess in Michigan and Marion where he continued to practice law and cohabit with his first wife. In 1899, after Countess Nanzimow (Nazemaw) divorced him because he spent too much time away from home, Baker publicly remarried his first wife. Indianapolis *News*, February 23, 1905; Marion *Chronicle*, April 17, 1909, February 26, 1931.

[11] The Beardsleys were direct descendants of Elkhart pioneers James Rufus Beardsley and Charles Beardsley who served as state senators in the nineteenth century. Albert Raper Beardsley, who became president and director of Dr. Miles Medical Company in 1890, began his legislative career in the House at the 1899 session. He advanced to one term in the Senate in 1905. Andrew Hubble Beardsley served two terms from 1917 to 1923; Walter Raper Beardsley served in 1937-39; and Edward Huggett Beardsley served in 1941-43. In addition to these four, at least one Democrat associated with Miles Laboratories served in the General Assembly: Harold F. Miller (House, 1959) was employed as a technical engineer at the time of his service. For the drug industry in Indiana, see Phillips, *Indiana in Transition*, 290-91. Information on the Beardsleys and Harold Miller is from *A Biographical Directory of the Indiana General Assembly* (2 vols., Indianapolis, 1980, 1984), Vol. 1, *1816-1899*, Vol. 2, *1901-1984*.

the war. During the transition, while Indiana celebrated its one hundredth birthday with glorifications of pioneer triumphs over Indians, nativist anxieties centered on "the lingering alien rather than the entering immigrant." With the war, "the immigrant qua immigrant disappeared from view, while fear of the alien absorbed the whole of American nativism and grew a hundredfold."[12] The era ended in the 1920s when Indiana epitomized the new nativism. During this decade the Republican party, officially dry and embodying devotion to native, white, Protestant supremacy, was clearly ascendant in state politics over the Democratic party, wet and champion of the cause of labor and ethnic minorities.

Regulating Public Morality, 1890-1920: Other Than Temperance

While temperance continued as the most persistent issue before the General Assembly, it vied at most sessions with several lesser questions of a sumptuary nature. Indeed, at one time or another, practically every activity from which human beings derive pleasure came under the scrutiny of state lawmakers. In the mid-1890s they focused on horseracing and parimutuel betting, issues that cropped up throughout the era.

The Roby Race Track, operating near Chicago in sparsely populated Lake County, brought betting on horses to the fore in 1893. The House appointed a special committee to investigate rumors of "horse racing, licentiousness and gambling" at Roby. Members visited the track and a majority found nothing wrong other than illegal betting which it felt existing laws could correct.[13] The agitation against Roby continued at the 1895 session when Hammond attorney Armanis F. Knotts lobbied on behalf of the track. Governor Claude Matthews called for action against horseracing in his message to the legislature, however, and a bill closing the track sailed through both houses. The enrolled bill was stolen from the engrossing room, but later was found in a closet near the Senate and forwarded to the governor. House clerk John W. Agnew told the press that Knotts, who later served in the House at the 1899 session, had offered him $500 to lose the bill, but nothing was done to investigate Agnew's allegation.[14] The action against Roby did not end the concern with parimutuel betting. In 1899 a bill to legalize such betting passed the House 65 to 6 but died when the Senate refused to consider the matter.[15] In 1915 the Senate passed a bill to allow parimutuel betting and create a state racing commission only to see it indefinitely postponed in the House.[16]

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[12] John Higham, *Strangers in the Land: Patterns of American Nativism, 1860-1925* (New Brunswick, N.J., 1955), 204.

[13] *House Journal*, 1893, pp. 291, 391, 396, 522, 528, 715-29, 962-63; Indianapolis *News*, February 6, 7, 16, 1893.

[14] The vote to close the track was 47 to 0 in the Senate, 80 to 0 in the House. *Senate Journal*, 1895, pp. 41-42, 789; *House Journal*, 1895, p. 1159; *Laws*, 1895, pp. 92-94. For the bribery allegation, Indianapolis *News*, March 6, 1895.

[15] *House Journal*, 1899, p. 1544; *Senate Journal*, 1899, p. 1303; Indianapolis *News*, February 28, 1899.

[16] *Senate Journal*, 1915, pp. 492-93; *House Journal*, 1915, p. 1640.

General assemblies of the era also constantly guarded the Sabbath. In 1893 the Senate spent more than an hour in debate before deciding to instruct the Indiana congressional delegation to vote for repeal of a law closing the Columbian Exposition at Chicago on Sundays. The House concurred the following day. Bills to prohibit the running of excursion trains on Sunday and to prohibit barbers from working on the Sabbath were considered at several sessions. In 1899 Senator William H. Nusbaum (DeKalb County) wanted legislation to require children to attend church each Sunday unless the children's parents did not believe in God. The question was indefinitely postponed. In 1917 the House refused to make it lawful to hunt and fish on Sundays while the Senate passed a bill to permit the showing of movies on Sunday if the showing served an educational, religious, or moral purpose. In the House a conference committee amended the bill to include a board of censors which could ban "immoral, indecent, or licentious moving pictures" every day of the week. The Senate concurred in the House amendment on the last day of the session. Governor James P. Goodrich signed the bill on March 8, believing it permitted motion pictures only after 2 p.m. on Sunday. Goodrich vetoed it the following day when he discovered the bill did not have this provision.[17] By far the most hotly contested Sabbath issue, however, was Sunday baseball.

The question came before the General Assembly because the Indianapolis Indians professional team was formed to compete in the American Association against teams representing such cities as Louisville, Kentucky, Columbus, Ohio, and Milwaukee, Wisconsin. Representative Thomas S. Guthrie (Delaware County), a teacher by profession and a Universalist in religious conviction, touched off an eighteen-year battle when he sought to amend state law in 1891 so as to allow ball games on Sunday.[18] Guthrie's proposal was indefinitely postponed, but the issue would not go away. By the mid-1890s, legislators from Marion County found themselves arrayed against most of the rest of the state in their biennial effort to legalize Sunday baseball. It was a classic confrontation between secularists of the big city and the old time religion, with the Methodist, Presbyterian, and Baptist churches leading the Sabbatarians. Harry S. New, owner of the Indianapolis *Journal* and future United States senator, unleashed the wrath of the righteous in 1897 when he introduced a seemingly innocuous bill on January 14 to allow Sunday baseball only in Indianapolis. New was supported by petitions signed by 1,000 businessmen, but he found himself swamped by a group called the Christian Endeavor Union armed with 15,000 signatures against the proposal. On February 26, New's bill was quietly tabled.[19]

In 1903 the issue dominated the session after the House passed a bill introduced by Willis R. Miner (Marion County) to legalize Sunday baseball in Indianapolis. Petitions, remonstrances, sermons, and visits to the General As-

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[17] *Senate Journal*, 1893, pp. 78, 245-46; *House Journal*, 1893, pp. 323-24; *Senate Journal*, 1899, p. 141; *House Journal*, 1917, pp. 177, 208; *Senate Journal*, 1917, pp. 904, 1344-47; Goodrich veto, Indianapolis *Star*, March 10, 1917.

[18] *House Journal*, 1891, pp. 255-56.

[19] *Senate Journal*, 1897, pp. 120, 260, 1061-63; Indianapolis *News*, February 20, 1897.

sembly by Indianapolis ministers soon followed. On January 29, when the bill passed 60 to 21, a committee of ministers presented a protest. The next day the Ministerial Association of Indianapolis adopted resolutions urging action in the Senate to kill the measure. Miner's bill was assigned to the committee on public morals, which amended it to apply to all cities with over 16,000 population. A petition said to contain the names of 10,000 voters against the bill was presented by opponents of Sunday baseball; supporters claimed they had petitions with 20,000 names in favor. On February 11 the Senate defeated the Miner bill 25 to 23, and on March 4 a motion to reconsider was tabled.[20]

In 1905 Samuel K. Ruick, Jr., of Indianapolis tried twice to change the law. His first bill, which would have allowed Sunday games between 2 and 6 p.m. with no liquor sold, was indefinitely postponed; his second bill, simply repealing the ban on Sunday baseball, was defeated 48 to 44.[21] Thomas W. Brolley, a Democrat from Jennings County, a Roman Catholic, and a member of the Knights of Columbus, was the man who finally brought Sunday baseball to the state. He tried first in 1907 with a bill allowing games if the field were more than 1,000 feet from a church. Brolley met impassioned opposition from Henry P. Sicks, a Methodist farmer from Boone County. "Sunday ball playing is one of the demoralizing influences of small towns and country communities," Sicks proclaimed. Brolley's bill passed the House anyway, but was defeated 35 to 15 after a two-hour debate before a packed gallery in the Senate.[22] Amidst the usual "flood of petitions" and ministerial furor, Brolley finally succeeded in 1909. The Brolley bill passed both houses, was vetoed by Governor Thomas R. Marshall, and then a second Brolley bill passed 56 to 39 in the House, 26 to 19 in the Senate.[23]

The Brolley bill, however, did not end the matter. In May, 1909, Marion County Superior Court Judge James A. Pritchard declared the law unconstitutional. Charles Carr, the manager of the Indianapolis Indians, was then charged with desecrating the Sabbath by playing a ball game on Sunday, May 23. By agreement with the court, Carr was not tried until October, when the baseball season was over and twelve Sunday games had been played. The manager was convicted and fined $1. Carr carried a successful appeal to the state Supreme Court, and baseball has been played in Indiana on Sunday continuously since 1909.[24] There were attempts at every session through 1919, however, to repeal

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[20] *House Journal*, 1903, p. 322; *Senate Journal*, 1903, pp. 389-90, 647-49, 1213; Indianapolis *News*, January 29, 31, February 4, 11, 1903. Senator William H. O'Brien, Sr. (Dearborn County) was declared in contempt of the Senate because he sat "white-faced and still refusing to vote" during the roll call. This condemnation was expunged from the record after O'Brien explained his silence: he had promised his wife not to vote for the bill but could not bring himself to vote against it. *Ibid.*, March 28, 1903; Indianapolis *Sentinel*, February 12, 1903.

[21] *House Journal*, 1905, pp. 755, 1498-99.

[22] *Ibid.*, 1907, pp. 1578-79; *Senate Journal*, 1907, p. 2280; Indianapolis *News*, statement by Sicks, January 21, 1907, Senate debate, March 8, 1907.

[23] *House Journal*, 1909, pp. 311, 1114-15, 1119, 1229, 1337-38; *Senate Journal*, 1909, pp. 1287, 1553; *Laws*, 1909, pp. 436-37; Indianapolis *News*, February 9, March 2, 1909.

[24] Indianapolis *News*, October 5, 6, 7, 1909; Indianapolis *Star*, October 6, 1909; *Carr* v. *The State*, 175 Ind. 241 (1911).

the Brolley law. The attempts included a proposal in 1915 by Charles C. Morris of Parke County to outlaw all forms of activity, except necessities, on Sunday. These proposals were invariably offered by lawmakers from LaGrange, Parke, Montgomery, or Putnam counties, and just as invariably tabled, indefinitely postponed, or not reported out of committee.[25]

Boxing, considered dangerous and brutal by many, received almost as much attention as baseball. In 1895 the House voted 76 to 0 to abolish prizefighting, but the Senate refused to concur even though Governor Claude Matthews asked for action on the last day of the session. A similar proposal in 1899 was indefinitely postponed. In 1917 a bill in the House would have created a state athletic commission to regulate boxing exhibitions, but it failed twice to pass. In 1919 a bill calling for exactly the same thing was read twice with no further action.[26] Football, bowling, and pool also were objects of legislative concern. In 1897 the House engrossed a bill by Evan L. Patterson (Franklin County) to prohibit football but it did not proceed to passage.[27] Levi R. Stookey (House, 1901) wanted to abolish bowling. He felt young men were being ruined because bowling alleys were "full of lewd women and drunken men and boys." The House defeated Stookey's bill to close them all.[28] Problems posed by billiards were discussed at almost every session. In 1911 the House indefinitely postponed a bill to prohibit the playing of musical instruments in pool halls, but it passed a bill in 1917 prohibiting minors from shooting pool. The Senate failed to concur in the latter bill.[29]

The regulation of sexual conduct was another preoccupation of lawmakers. Despite the constitutional ban on bills to legalize particular marriages or divorces, such bills were introduced frequently, and only a veto by Governor Winfield T. Durbin prevented one such act in 1903 from becoming law.[30] Proposed changes in divorce laws that did not pass included: a bill in 1899 that said no divorced person could remarry within two years unless adultery was the cause of divorce; one in 1901 that allowed divorce only for adultery or conviction of a felony and forbade the guilty party to remarry; one bill in 1911 that stipulated unless a couple had been married at least two years the parties could not use cruel and inhuman treatment as grounds for divorce; and another bill in the same year that said the party at fault could not remarry for five years.[31] A bill that

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[25] *House Journal*, 1915, p. 991; *ibid.*, 1917, pp. 200, 252; *Senate Journal*, 1913, pp. 853, 933, 1155; *ibid.*, 1919, p. 243.

[26] *House Journal*, 1895, p. 764; *Senate Journal*, 1895, pp. 1062, 1072-73; *ibid.*, 1899, pp. 64, 94; *House Journal*, 1917, pp. 348, 489-90, 514-15; *ibid.*, 1919, p. 359.

[27] *House Journal*, 1897, pp. 277, 436. Because of the number of deaths and serious injuries in football, it, like boxing, was considered a dangerous and brutal sport.

[28] Quotation, Indianapolis *News*, February 28, 1901; *House Journal*, 1901, p. 1388.

[29] *House Journal*, 1911, p. 847; *ibid.*, 1917, pp. 138-39; *Senate Journal*, 1917, p. 942.

[30] *Senate Journal*, 1891, p. 557; *ibid.*, 1903, p. 1175; Indianapolis *News*, March 11, 1903.

[31] *House Journal*, 1899, pp. 1225-26; *ibid.*, 1901, pp. 132, 210; *ibid.*, 1911, pp. 692, 694, 996.

passed in 1903 provided "limited divorce" (separation) for people who opposed absolute divorce on religious or moral grounds.[32]

Proposals to regulate extramarital conduct that did not become law included: one in 1895 entitled "A bill for an act to prohibit picnics and dancing in the open air after 7 o'clock P.M."; a bill in 1897 aimed at wine rooms and other evil resorts in large cities that would have made it "unlawful for men and women to congregate in secret places for immoral purposes"; one in 1907 making adultery a felony; and one in 1917 that, because of its ambiguous definition of indecent and offensive conduct on public streets, would prohibit "flirting" according to the Indianapolis *Star*.[33] In 1903 the Senate wanted to prevent convicts, paupers, or "persons afflicted with certain diseases" from marrying, but the House refused to concur.[34] Another proposal in 1907 would have empowered county boards to decide "the fitness" of applicants for marriage licenses; when that failed, a bill in 1913 proposed to require certificates showing both parties were free from communicable diseases, but it also failed; in 1915 the Senate passed a bill requiring males to show they were free of disease before they could marry, but the bill was voted down in the House after it was amended to include females.[35] In 1917 a bill requiring physicians to reveal the names of patients suffering from "diseases due to social vice" only got as far as second reading in the House.[36] In 1915 the General Assembly considered two bills dealing with hotels: one, which failed, provided up to a $100 fine or up to sixty days in jail for an unmarried couple who registered at a hotel as man and wife; the other, which passed, provided that hotel bed sheets must have dimensions of ninety-nine by eighty-one inches and stipulated that sheets and pillow cases must be freshly laundered for each new guest.[37]

Obscenity in literature and in theatrical performances also received legislative attention at practically every session. In 1891 the Woman's Christian Temperance Union, "believing that impure reading matter is leading thousands of children into evil ways . . . ," wanted a law to remedy the situation.[38] In 1911 the WCTU turned its attention to motion pictures and asked for legislation requiring parents to accompany children under sixteen at movies. The bill did not pass but it was

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[32] *Senate Journal*, 1903, pp. 646-47; *House Journal*, 1903, pp. 1045-46; *Laws*, 1903, pp. 14-15.

[33] *House Journal*, 1895, pp. 1117, 1332; *ibid.*, 1897, pp. 321, 789; Indianapolis *News*, January 25, 1897; *Senate Journal*, 1907, pp. 336-37; *ibid.*, 1917, p. 1092; Indianapolis *Star*, February 25, 1917.

[34] *Senate Journal*, 1903, pp. 86, 961; *House Journal*, 1903, p. 1159.

[35] *House Journal*, 1907, p. 1598; *ibid.*, 1913, p. 2009; *Senate Journal*, 1913, pp. 636, 1188-90; *ibid.*, 1915, pp. 148-49; *House Journal*, 1915, pp. 1005-6.

[36] *House Journal*, 1917, p. 550; Indianapolis *Star*, February 18, 1917.

[37] *House Journal*, 1915, pp. 475, 1384; *Senate Journal*, 1915, pp. 453, 836; *Laws*, 1915, p. 300.

[38] In addition to its constant crusade against liquor, the WCTU gave vocal support to most other bills of a sumptuary nature. Although its bill did not pass in 1891, the sale or publication of "pernicious literature" was prohibited in 1895. *Senate Journal*, 1891, p. 201; *ibid.*, 1895, p. 712; *House Journal*, 1895, p. 1465; *Laws*, 1895, p. 230.

not long before the legislature was considering the creation of a state motion picture commission empowered to censor films.[39] Hypnotists and clairvoyants also came under the legislature's watchful eyes: in 1911 the Senate voted to prohibit public exhibitions of hypnotism but the House failed to act; in 1917 palmistry, clairvoyance, and fortune telling "for money or gain" were prohibited.[40]

The dedication of many lawmakers to the eradication of vice was beyond question. Perry Rule came to Indianapolis in 1915 shortly after newspapers described the capital city as "the port of missing girls" where an estimated twelve girls "disappeared" every month. About the same time, a United States district attorney charged that Terre Haute had "'the largest and most corrupt red light district' in the country." Rule, describing prostitution as "a bondage worse than slavery," introduced a bill to padlock houses of ill-fame as nuisances. "I am not a fanatic or a fool and I am not a crusader," Rule told his House colleagues. "But I do believe that our homes and our families should be protected against this evil." The Rule bill passed the House 56 to 20, but foundered in the Senate where vice lobbyists fought its passage. At 11:00 a.m. on the final day of the session, the Senate passed the bill 29 to 5 but then it was "misplaced." At 3 p.m., after a dogged search, Rule found his bill in the pocket of a Senate secretary. He repossessed it, witnessed the signatures of the presiding officers, and carried the bill to Governor Samuel M. Ralston, who signed it. The experience of Perry Rule, a Carroll County farmer who appeared only once on the legislative scene, showed the importance of a single, persistent individual dedicated to the improvement of society.[41]

Temperance to 1920

Attempts to regulate, and ultimately to prohibit, the manufacture, sale, and consumption of alcoholic beverages exhausted more time by far than any other sumptuary issue. Liquor legislation dominated the sessions of 1895, 1905, 1911, and 1917, and occasioned the special session of 1908. At most other sessions the sheer volume of proposals, always presented amidst fevered agitation in the galleries and lobby, assured the ascendancy of temperance. At each session where liquor laws were made more stringent, the Republican party enjoyed majorities. At those sessions where the more extreme proposals were fended off or strict regulation was modified (as in 1911), the Democratic party controlled the legislature. But just as during the period from 1851 to 1889, temperance cut across party lines unpredictably because legislators were more likely to defy party discipline on this "matter of conscience" than on any other issue.

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[39] *House Journal*, 1911, p. 1119; *ibid.*, 1917, pp. 124, 184. Another bill in 1915 that was engrossed before failing proposed to ban theatrical performances and dancing which featured "a lustful swaying of the body." Indianapolis *Star*, February 16, 1915.

[40] *Senate Journal*, 1911, pp. 808-9; *ibid.*, 1917, pp. 927-28; *House Journal*, 1917, p. 230; *Laws*, 1917, pp. 66-68. The act did not apply to ministers of incorporated church denominations.

[41] *House Journal*, 1915, pp. 112, 936-37; *Senate Journal*, 1915, p. 1264; *Laws*, 1915, pp. 523-28. For the quotations, Rule file, Centennial History of the Indiana General Assembly, Archives Division, Commission on Public Records, Indiana State Library, Indianapolis.

J. Frank Hanly (Senate, 1891), Samuel E. Nicholson (House, 1895), Thomas T. Moore (Senate, 1905), and Frank E. Wright (House, 1915-1919) were the four lawmakers most responsible for making Indiana dry. Each devoted his life before, during, and after legislative service to the proposition that law could force sobriety upon mankind. Hanly, a Methodist lawyer from Warren County, went on to become a congressman (1895-1897) and Indiana governor (1905-1909). After leaving office he formed the Flying Squadron of America and Flying Squadron Foundation to lecture on the cause; he also founded the Indianapolis *National Enquirer* as a nationwide organ for temperance. In 1916 Hanly was nominated by the Prohibition party for the office of president of the United States. He was killed in an automobile accident near Dennison, Ohio, in 1920 while on a lecture tour for the Anti-Saloon League.

Nicholson, a Quaker from Kokomo, became a professional temperance advocate after fathering a local option law in 1895. In 1898 he helped found the Indiana Anti-Saloon League and served as its first field secretary. He then served as state superintendent of the league in Maryland (1900-1903), in Pennsylvania (1904-1910), and as associate superintendent in New York (1926-1931). In addition, Nicholson was the league's lobbyist in Washington, D.C., for two years and editor-publisher of *The American Friend*, the league's national newspaper. The only interruption in Nicholson's temperance career occurred when he headed the Friends Relief Mission in the Soviet Union in 1923-1924.

Moore, a Methodist from Greencastle, devoted his time to making the Republican party an instrument of drys. He began as Putnam County chairman in the 1890s, authored a local option bill in 1905, and ended as the unsuccessful candidate for lieutenant governor in 1912.

Wright was a Quaker who published a newspaper in Lynn, Randolph County. He was the most successful of the four in the legislature, authoring the state prohibition act of 1917, a bill in 1919 to prohibit the manufacture or possession of near beer, and the Wright Bone-Dry Law of 1925.[42] After the repeal of prohibition in 1933, Wright became a field secretary for the Anti-Saloon League. He delivered lectures around the state on his favorite topic until his death in Indianapolis in 1943.

While men like Hanly and Wright took the lead in the temperance movement, they could not have succeeded without the steady support of hundreds of others in public life. Samuel R. Artman, speaker of the House in 1901, was typical of the less well-known. Artman served as judge of the Boone County Circuit Court from 1902 to 1908. He gained statewide recognition when he presided at the trial of an Indianapolis saloonkeeper who had been granted a license by the Marion County commissioners over the protests of a large number of remonstrators. Judge Artman, in finding for the remonstrators, decreed that a saloon was a public nuisance without any constitutional right to exist. In 1908 the judge expanded his decision into a 295-page book, *The Legalized Outlaw*. In 1909

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[42] Wright's near beer prohibition passed the House 73 to 24, but did not come to a third reading in the Senate. *House Journal*, 1919, p. 425; *Senate Journal*, 1919, p. 674.

Artman became a law partner of J. Frank Hanly, and he served in various administrative positions in state government during Republican years. From 1923 to 1926, he was a member of the state Public Service Commission.[43]

In the early 1890s temperance advocates concentrated on education as the Woman's Christian Temperance Union led an effort to require instruction in the public schools about the effects of alcohol and narcotics on the human body. This effort succeeded in 1895 when the General Assembly passed a law requiring such instruction.[44]

The first radical change in liquor laws occurred in 1895 when Samuel E. Nicholson was named chairman of the House temperance committee. He introduced a bill on January 17 that would allow each county to prohibit the sale and consumption of liquor. From the time it was introduced the Nicholson bill dominated the session to the near exclusion of other matters. The debate was accompanied by an interesting sideshow. While the House considered Nicholson's bill, Representative Andrew Jackson (Carroll County) charged that opponents of temperance had placed a barrel of whiskey in the State House for the free use of members. Upon investigation, a House committee discovered that the furor was over two quarts of whiskey belonging to the State House engineer. He admitted "I may have asked ten or a dozen Senators and Representatives to take a little of it." The committee then recommended that Jackson be censured if he did not apologize for "an inexcusable slander upon the good name and integrity of the House . . . ." Jackson apologized.[45] As passed, the act provided a relatively mild form of local option whereby a majority of voters in a township or city ward could file remonstrances to prevent individual saloonkeepers from getting a license. Nicholson was unhappy with a Senate amendment that removed blanket remonstrances. He felt "they took everything of value out of the bill" before it passed. "It would have been better," he said, "for the Senate temperance committee to have killed the bill openly than to have stabbed it in such an underhanded way." Nonetheless, the Nicholson act was the first step toward prohibition.[46]

In 1897, when Nicholson successfully amended his law so as to abolish "quart shops" (dealers selling whiskey in less quantity than a quart did not have to purchase liquor licenses), liquor was once again present in the chambers. A liquor dealer had placed a small bottle of whiskey on each lawmaker's desk. In the uproar that ensued it was moved that the bottles be placed in the hands of the temperance committee for investigation and countermoved that they be submitted to the judgment of the newspapermen. Neither motion carried and the bottles were not removed.[47]

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[43] Artman file, Centennial History, ISL.

[44] *Laws*, 1895, p. 375.

[45] Indianapolis *News*, February 20, 1895; *House Journal*, 1895, pp. 950-53, 971-72.

[46] Indianapolis *News*, March 7, 1895. For action on the bill, *House Journal*, 1895, pp. 840-44, 967-71, 1454-55, 1503-4, 1516-17, 1564; *Senate Journal*, 1895, pp. 906-7, 916, 966-72, 1024-26; *Laws*, 1895, pp. 248-52.

[47] Indianapolis *News*, January 14, 1897; *House Journal*, 1897, pp. 130, 1299; *Senate Journal*, 1897, pp. 1207-8; *Laws*, 1897, pp. 253-54.

Attempts either to strengthen or to repeal the Nicholson act followed at every session. In 1903 temperance advocates presented "yards upon yards of signatures" against one attempt at repeal. At the same session the legislature passed a law forbidding liquor sales within one mile of a soldiers' home or an army post.[48] In 1905 the Moore bill passed, restoring Nicholson's provision allowing blanket remonstrances to halt liquor licenses for all applicants in a given township or city ward. The debate was accompanied by numerous petitions, including one of almost 100 pages from New Albany against any further temperance legislation, but petitioners favoring the Moore bill outnumbered opponents by a three to one margin.[49] Bills introduced but not enacted in 1905 included: one that prohibited treating another to a drink; one that prohibited saloons within 500 feet of a school, church, or public library; one prohibiting the sale of liquor to intoxicated persons; and one confining business to one room in saloons.[50]

After the Moore bill became law, the next step taken by temperance advocates was to secure local option on a countywide basis in 1907. J. Frank Hanly sat as governor and Republicans controlled both houses (37 to 13 in the Senate, 53 to 47 in the House). Although dozens of restrictive liquor bills were introduced, none of any significance became law. Dissatisfied, Hanly decided a special session of the legislature was in order. It met from September 18 to September 30, 1908, and devoted itself primarily to passage of an act authorizing the people of any county to ban the liquor traffic completely within its borders. An almost circus-like atmosphere prevailed in the State House while the bill was under consideration; hundreds of ministers and temperance advocates wore white ribbons and packed the galleries. The local option people booed wet speakers, cheered and demonstrated for the drys, and on one occasion 100 of them had to be driven from the House chamber by police after an argument with some unsympathetic representatives.[51] In the House six Democrats joined the majority in voting for the bill, while four Republicans voted against it. Luther W. Knisely, a Democrat from DeKalb County who voted "No," charged that Governor Hanly and Senator Thomas S. Wickwire offered him a job at up to $2,000 a year to vote for the bill. "Knisely, this is the opportunity of your life," said the governor according to the representative. Hanly denied the charge. The House found "no evidence" to implicate Hanly but criticized Wickwire; the Senate committee concluded the matter was "a misunderstanding" and Wickwire did not intend "to make any improper proposal." The houses then adjourned *sine die.*[52]

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[48] Indianapolis *News*, February 5, 1903; *House Journal*, 1903, pp. 1510-11; *Senate Journal*, 1903, pp. 620-21; *Laws*, 1903, p. 383.

[49] *Senate Journal*, 1905, pp. 594-99, 639-40; *House Journal*, 1905, pp. 960-61; Indianapolis *News*, February 3, 1905. A meeting of 600 members of the German-American Alliance in Indianapolis also declared against all further temperance legislation. *Ibid.*, January 24, 1905.

[50] *House Journal*, 1905, pp. 229, 171, 308, 619.

[51] *Senate Journal*, 1908 (s.s.), 28, 56-67, 111-12; *House Journal*, 1908 (s.s.), 44, 56, 62; *Laws*, 1908 (s.s.), 4-9. For demonstrations, see Indianapolis *News*, September 21, 22, 24, 1908.

[52] Indianapolis *News*, September 26, 1908; Indianapolis *Star*, September 29, October 1, 1908; *House Journal*, 1908 (s.s.), 56, 92-93, 105-7; *Senate Journal*, 1908 (s.s.), 139-40.

The Democratic state platform in 1908 called for repeal of the county option law, but this took until 1911 to accomplish. In the meantime seventy counties became totally dry and only Vanderburgh County remained completely wet. The fight over repeal dominated the 1909 and 1911 sessions, accompanied by the usual petitions, packed galleries, and demonstrations. When the repeal did pass, two Democrats in the Senate bolted their party while one Republican voted for it. The repeal law substituted a township-unit option for countywide prohibition, and by 1912 this had reduced the number of completely dry counties to twenty-six.[53]

With Democrats dominant at the sessions of 1913 and 1915, temperance agitation was less noticeable. A law prohibiting drinking on trains, interurbans, and streetcars passed in 1913, and a bill permitting the sale of liquor on some holidays almost passed.[54] A bill to abolish free lunches in saloons passed the House in 1915, but no action was taken in the Senate. Frank E. Wright introduced a bill for statewide prohibition, but it was not reported out of committee.[55] When the Republican party won control of both houses and elected a governor in 1916, however, the stage was set for the realization of the temperance advocates' fondest dream, statewide prohibition.

Frank E. Wright reintroduced his prohibition bill on January 12, 1917. By January 23 the Anti-Saloon League, the Dry Federation, and the Woman's Christian Temperance Union had presented supporting petitions with more than 200,000 signatures. These organizations occupied the House gallery on January 25 when passage was preceded by two hours of full-blown, sometimes heated oratory. Dry supporters spoke about liquor as a debauching and corrupting influence that encouraged vice and crime. Wets, to the accompaniment of boos and hisses, stressed the loss of revenue if the bill passed. At 3:10 p.m., eighteen Democrats joined with fifty-two Republicans in favor, while twelve Republicans and sixteen Democrats voted no. On February 2, again before a packed gallery, the Senate concurred 38 to 11. Indiana was to become totally dry on April 2, 1918.[56] In 1919 Senators Franklin McCray and Thomas Dorrell, Sr., introduced a joint resolution on January 13 to ratify the Eighteenth Amendment to the United States Constitution. It was adopted 41 to 6 and the following day the House concurred 87 to 11. Indiana had been dry for almost a year; the entire country was about to follow its lead.[57]

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[53] For action on the repeal bill that went farthest before failing in 1909, *House Journal*, 1909, pp. 426-27, *Senate Journal*, 1909, pp. 1475-77; for repeal, *ibid.*, 1911, pp. 786, 1084-94, 1697-99, 1728, *House Journal*, 1911, pp. 614-16, *Laws*, 1911, pp. 363-70. See also Phillips, *Indiana in Transition*, 496.

[54] *House Journal*, 1913, pp. 97, 525-26; *Senate Journal*, 1913, pp. 924-25; *Laws*, 1913, pp. 29-30; *Senate Journal*, 1913, pp. 704, 1009-10; *House Journal*, 1913, p. 2090.

[55] *House Journal*, 1915, pp. 165, 451, 1004-5.

[56] *Ibid.*, 1917, pp. 90, 157-58, 287; *Senate Journal*, 1917, pp. 449-50; Indianapolis *Star*, January 23, 26, February 3, 1917; *Laws*, 1917, pp. 15-34.

[57] *Senate Journal*, 1919, pp. 68-70; *House Journal*, 1919, pp. 72-74; *Laws*, 1919, pp. 846-47.

The success of the prohibitionists marked the culmination of an effort that began at the 1853 session. Between then and 1917, more than 2,000 bills to regulate or prohibit the manufacture, sale, and consumption of alcoholic beverages had been introduced in the state legislature. Although probably less than 100 bills were signed into law, the general result was a convoluted collection of legislation that attempted to regulate all conceivable situations, a collation of canons likely to change every time there was a change in party control at Indianapolis. The Republican party from the day of its founding in 1855 tended to be dry, supported as it was by Quakers, Methodists, Presbyterians, and Baptists who made up the bulk of Indiana's native, white, Protestant population. These were also the people most determined to eradicate all traffic in alcohol. Because of the importance of its German and Irish constituency, which was against prohibition, and the party's historic suspicion of using the power of government to force people to behave, the Democratic party would be wet. Prohibition was achieved just as the Republicans began sixteen years of dominance in state government. As long as they remained dominant, Indiana would remain dry.

Celebrating Indiana and Americanism

As early as 1907 Professor James A. Woodburn of Indiana University proposed that Indiana plan a centennial celebration in 1916 to commemorate the state's entry into the Union. For the next several years Professor Woodburn fervently promoted the idea of a state-supported centennial observation. His efforts occurred at the height of the political and social reform activity known as the Progressive movement. The formation of a professorial-political partnership, wherein academic experts would advise politicians how to reform society effectively, was a basic component of Progressivism. In Indiana, Woodburn was one of the professors most deeply involved. He helped write Governor Thomas R. Marshall's ill-fated new constitution in 1911 and, in the process, Woodburn became well-acquainted with important Democratic politicians. It was thus not accidental that Democrats introduced every bill bearing on the centennial.

Senator Evan B. Stotsenburg of New Albany introduced a bill in 1911 establishing an Indiana Centennial Commission to make plans for the erection of a memorial building to house the State Library and Museum, the Public Library Commission, and state educational and scientific offices.[58] The commission asked for $2 million and in 1913 Stotsenburg introduced not one, but two, bills to obtain the money. Each passed the Senate without a dissenting vote but the House refused to approve such a huge amount. The proposition, submitted to a popular referendum, was defeated (along with a proposal to call a constitutional convention).[59] Stotsenburg also failed in 1913 to win approval for a bill to acquire the old capitol building at Corydon. It took Michael C. Thornton, who succeeded

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[58] *Senate Journal*, 1911, pp. 550, 805-6; *House Journal*, 1911, p. 1615; *Laws*, 1911, pp. 99-101; Indianapolis *Star*, March 2, 7, 1911.

[59] *Senate Journal*, 1913, pp. 1179-80, 1504; *House Journal*, 1913, pp. 1953-54, 2054; Phillips, *Indiana in Transition*, 539.

to Stotsenburg's Senate seat, until 1917 to win approval for the purchase of the Corydon state house.[60] A bill making Paul Dresser's "On the Banks of the Wabash, Far Away" the official state song and a House concurrent resolution making the carnation the official state flower did pass in 1913.[61]

In 1915 the bill passed that established the Indiana Historical Commission. There were to be nine members and they were authorized to spend $25,000 for a state centennial observance.[62] According to the law, the Indiana Historical Commission had a two-fold charge: one, it was authorized to spend $5,000 for the publication of books on state history; and two, it was to promote centennial celebrations for which $20,000 was appropriated. Governor Samuel M. Ralston was *ex officio* president of the commission. Other members included James A. Woodburn, professor of history at Indiana University, Charles W. Moores of the Indiana Historical Society, Harlow Lindley, director of the Department of Indiana History and Archives of the Indiana State Library, Charity Dye, a leader of the Federation of Women's Clubs, and Father John Cavanaugh, president of the University of Notre Dame. Subsequently, a two-volume work entitled *Constitution Making in Indiana*, edited with historical notes by Charles Kettleborough of the Indiana Bureau of Legislative Information, was published in 1916. These first two volumes in the prestigious *Indiana Historical Collections* were rich in source material for the history of the General Assembly and represented the Historical Commission's most lasting contribution.

The commission's promotion of centennial celebrations, however, had a more immediate impact on the state. With Governor Ralston leading the way, the commission inundated Indiana with centennial propaganda. No avenue was overlooked: there was a flood of bulletins and news releases for schools and newspapers; a network of volunteer speakers was organized; and centennial pageants were instigated for each of the ninety-two counties, with Corydon, Bloomington, and Indianapolis presenting spectaculars that lasted several days. An estimated 250,000 citizens saw these pageants, and between 30,000 and 40,000 people acted in them. The commission also produced a seven-reel motion picture entitled "Indiana" which featured James Whitcomb Riley, complete with lapdog and surrounded by children, telling the state's story from his front porch on Lockerbie Street in Indianapolis.[63]

An aura of almost religious-like mysticism surrounded much of the activity: Governor Ralston spoke of Corydon as a "sacred spot" equal in importance

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[60] The state purchased the Corydon capitol for $50,000. *Senate Journal*, 1915, pp. 851-55; *ibid.*, 1917, pp. 144-49; *House Journal*, 1915, pp. 1486-88; *ibid.*, 1917, pp. 608-9. Thornton, an inveterate patriot and sentimentalist, is best remembered as the composer of "Will You Say to My Dear Mammy," a war song published in 1918 which sold over 300,000 copies. Thornton file, Centennial History, ISL.

[61] *Senate Journal*, 1913, pp. 95-96, 1503; *House Journal*, 1913, pp. 1834, 1956; *Laws*, 1913, pp. 693-94, 967.

[62] *Senate Journal*, 1915, pp. 830-31; *House Journal*, 1915, p. 1547; *Laws*, 1915, pp. 455-57.

[63] Harlow Lindley (ed.), *The Indiana Centennial, 1916: A Record of the Celebration of the One Hundredth Anniversary of Indiana's Admission to Statehood* (Indianapolis, 1919), *passim*.

to Jerusalem for Jews, Mecca for Mohammedans, the Acropolis for Greeks, and St. Peter's for Italians. "The Hoosier who cannot be here . . . ," said the governor, "should at least follow the example of the Moslem who, at sunrise, turns his face toward Mecca for religious inspiration."[64] The Bloomington pageant included "The Hymn to Indiana" which began:

> To Heaven raise thy star-crowned head,
> Superb Indiana!
> Thy future to glory wed
> Through toil! Praise God! Hosanna![65]

Each of the pageants glorified Hoosier pioneers who overcame all obstacles including the implacable Indian foe. In 1919 the commission reprinted the script for the pioneer skit from the Bloomington pageant "since it sets forth so well . . . the masterful blending of symbolism and realism . . . ." This blending included masses of young women dressed in blue to symbolize the spirit of Hope and masses of young men dressed in purple to personify the spirit of Determination. These spirits met "in a whirling dance of exquisite joyousness." Next came a procession of Pioneers. Suddenly there poured "stealthily down on them bands of Indians attacking them with ferocity, yelling the war-whoop, shooting their arrows, and brandishing their tomahawks." But Hope and Determination joined to overcome the savages.[66]

The governor and the commission missed no opportunity to publicize the celebration. When the National Conference of Charities and Correction met in Indianapolis in May, 1916, participants received a profusely illustrated 156-page pamphlet entitled *A Century of Progress*. This souvenir, presented with the compliments of Governor Ralston, consisted of a brief history of each state charitable and correctional institution. The pictures included one of patients at the Northern Hospital for the Insane merrily picnicking on the grounds at Logansport and others of inmates at work and leisure at the Jeffersonville Reformatory and the State Farm at Putnamville.[67]

In summarizing its accomplishments in 1919, the Indiana Historical Commission boasted that "From the bluffs of the Ohio to the sand dunes of Lake Michigan there has been a general outburst of patriotic interest in Indiana and its history."[68] This boast was true, but only partially because of the Historical Commission's work. In 1917, when the legislature acted positively on outgoing Governor Ralston's recommendation for a permanent historical commission, Republican Governor James P. Goodrich refused to sign the bill.[69] Goodrich was

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[64] *Ibid.*, 139.

[65] *Ibid.*, 216.

[66] *Ibid.*, 208-17, quotations, 212-13.

[67] Amos W. Butler, *A Century of Progress: A Study of the Development of Public Charities and Corrections, 1790-1915* (Jeffersonville, Ind., 1916). For the work of the Historical Commission on this pamphlet, see Lindley (ed.), *Indiana Centennial*, 32.

[68] Lindley (ed.), *Indiana Centennial*, 63.

[69] *House Journal*, 1917, pp. 491-92; *Senate Journal*, 1917, pp. 1313-14; John W. Oliver, "Cooperation Among Historical Agencies," *Proceedings of the State History Conference, 1919* (Indianapolis, 1920), 33. Oliver said no one understood the reason why Goodrich refused to sign the bill.

probably motivated by the fact that Ralston, a Democrat, had made good use of the commission for self-promotion. Then, a month after the legislative session ended, the United States entered World War I. Soon the state was flooded by anti-German propaganda from the federal Committee on Public Information. Bulletins, news releases, a network of speakers, and motion pictures—the same techniques the Historical Commission had used to promote the centennial celebration—were now used by the national government to promote "making the world safe for democracy." In December, 1918, Governor Goodrich summoned the former members of the commission to Indianapolis and set them to work organizing a county by county history of Indiana's participation in the Great War. They were financed from the governor's contingency fund until the legislature met. As the historian of the Indiana Historical Society concluded, "certainly the World War saved the commission in 1919."[70] At the 1919 session, with Goodrich's support, the Indiana Historical Commission was reauthorized and became a permanent state agency with its name eventually changed to the Indiana Historical Bureau.[71]

The General Assembly of 1919 represented a citizenry that had been propagandized for four years on the virtue of pioneer values, Americanism, and the necessity for constant vigilance against all foes foreign and domestic. The Indian tribes of pioneer days were long since vanquished and the more recent German enemy had surrendered. The aroused population still needed enemies, however, and its legislature responded with a flurry of activity against foreigners and Bolshevism.[72] Indiana lawmakers could not show their patriotic fervor during the months that the United States was a belligerent because the General Assembly was not in session. They made up for lost time in 1919, moving first against Germans. Although Republicans controlled both houses, it was a bipartisan phenomenon.

Senator John S. Alldredge, a Republican lawyer from Anderson, initiated the effort on January 13. Alldredge's bill (S.B. 1) repealed the 1869 law mandating the teaching of German in schools on petition of twenty-five parents. The repeal passed both houses without a dissenting vote, but did not become law.[73] Representative Joseph L. Axby, a Democrat from Dearborn County, introduced two bills to bar instructions to voters in any but the English language, but neither was reported out of committee.[74] Democratic Senator Glenn Van Auken of DeKalb

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[70] Lana Ruegamer, *A History of the Indiana Historical Society, 1830-1980* (Indianapolis, 1980), 116.

[71] *Laws*, 1919, pp. 192, 415.

[72] The Indiana General Assembly was far from alone in passing such laws. For example, fourteen state legislatures enacted criminal syndicalism laws in 1919, following or expanding upon the example which five states had set during the war. See Higham, *Strangers in the Land*, 227.

[73] *Senate Journal*, 1919, p. 153; *House Journal*, 1919, pp. 355-56. According to the legislative *Journals*, the last action was for the House to return the engrossed bill to the Senate. It was never signed by the president *pro tempore* or sent to the governor.

[74] *House Journal*, 1919, p. 575. One of Axby's bills would have repealed an act of 1889 that permitted printed instructions to voters in foreign languages; the other would have prohibited clerks from helping voters unable to read English.

County was more successful with his bill to eliminate German courses from public high schools. The bill passed both houses with only eight dissenting votes.[75]

Senator Franklin McCray of Indianapolis introduced the strongest anti-German bill of the session, an act that forbade the teaching of German in elementary schools. "This state of Indiana is lagging; we are behind the times," proclaimed McCray. "All our talk, all our speeches and all our work, both at home and on the battle fields for the last year and a half, have been against the Hun; but all this will have gone for naught if we allow to flow through our schools the German poison that must of necessity corrupt the channels of patriotism in this land."[76] The bill was passed in fifteen minutes by the Senate under suspension of the rules after Lieutenant Governor Edgar D. Bush called for "100 per cent American" legislation on the issue.[77] In the House, Republican Richard A. Lowe (Montgomery County) wanted to amend the McCray bill so that no foreign language could be taught. "We want no little Germanys, nor do we want any little Italys or other groups," said Lowe. Democrat Samuel Benz, whose father had served in the General Assembly after emigrating from Germany to Crawford County, also favored outlawing all foreign languages. "If any German doesn't believe in this country and what it stands for, there ought to be a law passed to take him back to Germany," said Benz.[78] On February 20 all 150 members of the General Assembly received a letter from Mrs. Frank Felter, state regent of the Daughters of the American Revolution, which said, in part, "Any man voting against the [McCray] bill declares himself a pro-German and should be ostracized from social and political life." The only lawmaker to vote "No" was a Democrat, an Irishman, a Roman Catholic, and a member of the Knights of Columbus with a law degree from the University of Notre Dame, Senator Charles Aloysius Hagerty of South Bend.[79] The following December 11, when the Historical Commission celebrated the state's admission to the Union, the same Mrs. Felter was an honored guest who spoke on how to "preserve the historical documents" of the DAR.[80]

Anti-Bolshevik proposals in 1919 included a bill offered by Democrat Zachariah H. Deem of Floyd County that prohibited the display of flags or emblems by groups advocating the overthrow of organized government. It also banned the publication of books advocating the same. This passed both houses without a dissenting vote.[81] Other proposals included a bill offered by Representative Winfield Miller of Indianapolis and another offered by Senator Van Auken against Bolshevism. Miller's bill said Bolshevism consisted of "treasonable utterances or acts, advocacy of anarchy, [any] attempt to overthrow [the] gov-

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[75] *Senate Journal*, 1919, pp. 348-49; *House Journal*, 1919, p. 834; *Laws*, 1919, pp. 822-23.

[76] Indianapolis *Star*, February 18, 1919.

[77] *Ibid.*; *Senate Journal*, 1919, p. 375.

[78] Quotations, Indianapolis *Star*, February 26, 1919; *House Journal*, 1919, pp. 519-20.

[79] Indianapolis *Star*, February 21, 1919; *Senate Journal*, 1919, p. 375.

[80] Ruegamer, *History of the Indiana Historical Society*, 122.

[81] *House Journal*, 1919, pp. 244, 453; *Senate Journal*, 1919, pp. 704-5; *Laws*, 1919, pp. 588-

ernment, the display of the red flag of anarchy, or acts against law and order." Penalties could be up to a $10,000 fine, five to twenty-five years imprisonment, and permanent disfranchisement. Miller's bill passed the House 87 to 1 and was referred to the Senate, which did not act on the bill before adjournment.[82]

Thus, as the state prepared to enter the 1920s, there was state and national prohibition; a resurgence throughout the land of patriotic fervor coupled with suspicion of, if not hostility toward, anybody who looked different, spoke with an accent, or worshiped at the wrong church; and a quarter-century Indiana tradition of passing laws to regulate personal behavior. The stage was set and the props were in place. Only the leading and supporting roles remained to be cast and these would be filled by the elections during the coming decade.

Sumptuary Legislation in the 1920s: Other Than Temperance

By 1920 the notion that the Indiana General Assembly could legislate against sin was so deeply imbedded that lawmakers considered sumptuary measures as a matter of habit. For example, attempts to censor motion pictures were made at every session. In 1921, a bill to prohibit immoral movies and those which showed boxing, bull fights, murder, or other acts of violence passed the Senate despite objections by some senators that such loosely framed laws were difficult to enforce. The House passed a similar bill, introduced by Julia D. Nelson of Muncie, the first woman elected to the General Assembly. Representative Nelson's bill would have established a state censorship board of four members. Each house failed to act on the other's bill, however, and the session ended without a censorship law.[83] Similar bills in 1923 and 1925 died without debate or protest when they attracted no support in hearings. A bill barring the sale of salacious literature did pass the House in 1925, but there was no Senate action.[84]

In 1923 the second woman to serve in the General Assembly, Elizabeth Rainey of Indianapolis, introduced a comprehensive marriage and divorce bill at the behest of the General Federation of Women's Clubs. Rainey, a school teacher and legal secretary, sought to prevent marriage between persons of different races (white, red, black, and yellow were the races specified). Imbeciles, epileptics, and persons suffering from tuberculosis or venereal disease were also to be barred from matrimony. The bill sought to prevent hasty marriages by requiring a two week wait before a license was issued, and women under eighteen and men under

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[82] *House Journal*, 1919, p. 629; *Senate Journal*, 1919, pp. 330, 460, 668-69; Indianapolis *Star*, February 14, 1919.

[83] *Senate Journal*, 1921, pp. 599, 684, 748, 788-89, 1004; *House Journal*, 1921, pp. 440, 690-93, 821-23, 885, 919; Indianapolis *Star*, March 1, 5, 1921. The theater-going habits of people in Representative Nelson's hometown help explain the constant pressure for movie censorship. Almost three times the city's entire population attended the nine motion picture theaters during July, 1923, and four and one-half times the total population attended during December. Among the films heavily patronized were "Sinners in Silk," "Women Who Give," and "The Queen of Sin." Robert S. and Helen Merrell Lynd, *Middletown: A Study in Contemporary American Culture* (New York, 1929), 263-67.

[84] Indianapolis *News*, January 30, 1925; Indianapolis *Star*, January 11, 1923, March 3, 1925.

twenty-one would be required to have parental consent. With respect to divorce, the bill narrowed the grounds and forbade divorced persons from remarrying for one year. The Rainey bill died when a motion to strike out its enacting clause carried by voice vote.[85]

The most intensely fought issue in 1923 was engendered by a new twist on Sabbath breaking. Senator Robert L. Moorhead of Indianapolis introduced a bill to keep Memorial Day "sacred" by prohibiting on that day certain races, games, and sports. Moorhead, a book publisher, had impressive patriotic credentials: one of the founders of the American Legion, he was a member of the Indiana Society of the Sons of the American Revolution, the Indiana Society of the War of 1812, the Civil War Round Table, the Military Order of Foreign Wars of the United States, the United Spanish War Veterans, and the Society of Indiana Pioneers. His bill, supported by the state American Legion but not by the Marion County posts, was intended to stop the Indianapolis 500 Mile Race in order to give time for religious and patriotic memorial services for veterans. Ministers turned out to lobby for passage and the state commander of the Legion threatened to lift the charters of Marion County Legion posts because they refused to support it. The Indianapolis *Star*, however, commended a Unitarian minister who argued that bills to censor movies and ban racing were "socialistic" in that they represented government telling people how to run their lives. Moorhead's bill sailed through both houses but Governor Warren T. McCray vetoed the measure as class legislation and thus unconstitutional. The Senate sustained the veto.[86]

The determination of the German Lutheran constituency in Allen County to repeal the ban on teaching German in public schools drew fire at two sessions. In 1921 Senators William E. Bowers and Lee J. Hartzell, both from Allen County, introduced the first attempt at repeal. When the bill reached third reading, Hartzell shook his fist at Joseph M. Cravens of Madison when the latter questioned Hartzell's loyalty. Lieutenant Governor Emmett F. Branch broke his gavel in restoring order. The repeal was defeated on voice vote.[87] In 1923, Waldemar E. Eickhoff, a Democrat of German ancestry from Fort Wayne who fought in the United States Army during World War I, succeeded over determined opposition in legalizing the teaching of German again in public schools.[88]

The uproar over teaching German was probably the most obvious controversy engendered by World War I, but the upsurge of nativism in the state ensured there would be others. During the war the United States Army had gathered a

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[85] *House Journal*, 1923, pp. 37, 255-56, 324-25, 485-86, 695; Indianapolis *Star*, January 11, February 6, 10, 1923.

[86] *Senate Journal*, 1923, pp. 31, 45, 70, 92-93, 715, 788, 794, 909-10; *House Journal*, 1923, pp. 86-87, 134-35, 368-70, 612-14, 720; Indianapolis *Star*, January 22, 28, February 6, 7, 14, 27, March 6, 1923.

[87] Indianapolis *Star*, February 23, 1921.

[88] Eickhoff sponsored separate bills to legalize teaching German in high schools and elementary schools. Only the bill regarding high schools became law. *House Journal*, 1923, pp. 52, 391-92, 710, 795; *Laws*, 1923, p. 262; Indianapolis *Star*, February 15, 1923.

mass of data on the intellectual ability of black, native white, and foreign-born soldiers. It showed that northern Europeans scored almost as well as native whites, whereas blacks and soldiers born in Latin and Slavic countries averaged significantly lower. In the 1920s, eugenicists seized upon these data as proof of the superiority of white, Anglo-Saxon Americans.[89] In this context, a eugenics bill introduced by Senator Carl E. O. Holmes of Gary in 1925 was filled with potential menace for minorities. Holmes, a banker and realtor, was of Swedish ancestry. Prior to entering the Senate, he had served on the state Committee on Mental Defectives. His 1925 bill was entitled "an act to prevent the procreation of persons socially inadequate from defective inheritance . . . ." It provided for the appointment of a state eugenicist who would make a study of the state's wards and recommend sterilization if the facts showed such people might reproduce their kind, *i.e.*, more inmates for the state's institutions. William Brown of Porter County proposed an amendment that no one to be sterilized by the act could "be made the subject of any experimentation by the state eugenicist or any physicians or surgeons employed to assist" him. Brown's amendment failed. The Indianapolis *News* lauded the bill because for years the birth rate had been low among the "more fortunate people" while there was an alarming increase in the number of "mental defectives." Senators Robert L. Moorhead and Thomas A. Daily, both of Indianapolis, were enthusiastic proponents. Daily, just before the Senate passed the bill 31 to 12, stated that he was for every man setting out his pedigree "just as we do our pedigreed hogs and cattle."[90] The Holmes bill, perhaps with Daily's remark in mind, was assigned to the House committee on agriculture. The committee reported it without recommendation and then Charles Mendenhall of Marion County successfully moved for indefinite postponement.[91]

Other examples of sumptuary measures included a Sunday closing bill in 1925. It would have forced all "secular" businesses to close and was favored by a Methodist minister because Sunday business subjected the church to "unfair competition." The bill was indefinitely postponed by the House.[92] In 1927 the Senate debated, but failed to pass, one bill that provided for daily reading of the Bible in public schools and another that would have permitted two hours of released time per week for students to take religious instruction.[93] Almost all sumptuary bills were referred initially to the House or Senate committees on public morals. There many of them languished for lack of attention because at every session the liquor question dominated those committees. While the state and the nation entered the 1920s officially dry, the Indiana General Assembly was determined to take the state beyond dry to bone dry. Enforcement of prohibition thus dominated the legislative deliberations of the decade.

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[89] For the national impact of eugenics and psychological testing in the 1920s, see Higham, *Strangers in the Land*, 149-53, 273-76.

[90] *Senate Journal*, 1925, pp. 92, 129, 197-98, 202-4, 321, 330, 394, 537-38; supporting editorial, Indianapolis *News*, January 31, 1925; Daily quotation, Indianapolis *Star*, February 18, 1925.

[91] *House Journal*, 1925, pp. 446, 452-53, 604.

[92] Indianapolis *Star*, March 6, 1925.

[93] *Ibid.*, February 8, 22, 1927.

Temperance: Beyond Bone Dry

Harold Feightner, a political reporter who covered every General Assembly from 1921 to 1933 for the Indianapolis *News*, stated that the Ku Klux Klan, the Anti-Saloon League, and the Horse Thief Detective Association dominated state government during the 1920s. According to Feightner, each had a divine mission: the first to purify politics, the second to stop drinking by means of force and fear of damnation, and the third to safeguard chastity in lovers' lanes. "Collectively, these forces of righteousness swallowed the Republican Party and caponized the Democrats," Feightner concluded.[94] With regard to temperance, force and fear were certainly the exact tools enacted into law by the General Assembly. Since Republicans dominated every session, their party was mainly responsible for the excesses. But in Indiana temperance had always been a bipartisan phenomenon and it remained so as Democrats lent occasional assistance to those who insisted that the state must be bone dry.

In 1921 the Anti-Saloon League wanted to strike at home brew with an "extra bone dry" amendment to the liquor law. Republican Senator Oliver E. Dunn, a Methodist who owned a clothing store in Spencer, obliged by introducing a bill that made possession of any amount of liquor illegal, including hair tonics and patent medicines. It also permitted police to confiscate automobiles used to transport liquor, with the funds realized going to the state educational fund.[95]

Two years later Dunn sponsored new legislation imposing mandatory penalties for possession of liquor that included a fine of from $100 to $500 and a jail sentence of thirty days to six months. The Indianapolis *Star*, appalled by the bill, observed that there was nothing else like it in the statutes and the senators who passed it had lost their sense of proportion. Dunn's bill was one of two important temperance measures supported by the Anti-Saloon League that became law in 1923. The second, sponsored by Senator Charles J. Buchanan of Indianapolis, dealt with illegal stills. The Senate version of Buchanan's bill permitted judges to suspend sentences for first offenders, a provision that did not satisfy the Anti-Saloon League. It organized a group of "dry pulpit knights" to support temperance measures. At least seven such knights spoke in Indianapolis

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[94] Feightner oral history interview, 132, Indiana Division, ISL. From 1934 to 1967, Feightner was a publicist for the newly-formed Indiana Brewers Association. For the political impact of the Klan, see below, pp. 314-27 *passim*. The Horse Thief Detective Association originated with a state law from the 1870s that sanctioned the organization of men in each county for the purpose of arresting horse thieves and other felons. Once the members were certified by the secretary of state, they obtained the powers of a constable, but they were under no bond for the correct and faithful performance of their duties. In the 1920s the Klan seized upon the association as its armed auxiliary to enforce "morality" and the liquor laws. Democrats repealed the law allowing Horse Thief Detective associations in 1933. *Ibid.*, 13, 140; Kenneth T. Jackson, *The Ku Klux Klan in the City, 1915-1930* (New York, 1967), 145-46; John L. Niblack, *The Life and Times of a Hoosier Judge* (n.p., 1973), 238-39.

[95] *Senate Journal*, 1921, pp. 309, 415-16, 514-16, 569-70, 951, 954-55, 1024; *House Journal*, 1921, pp. 612, 622, 636, 725, 929-30, 950, 1008; *Laws*, 1921, pp. 736-40; Indianapolis *Star*, February 1, March 5, 1921.

churches on Sunday, January 28, urging congregations to lobby the House about a "law which would prevent the suspension of sentence on a second offense . . . ." In fact, the first offender clause was missing from the printed version of Buchanan's bill which appeared on House members' desks on February 20, but it was restored before final passage.[96] Frank E. Wright was possibly involved in the temporary disappearance of the first offender clause from the Buchanan bill. Although Wright did not seek election in 1920 or in 1922, he was present as chief clerk of the House at the 1921 and 1923 sessions.

In 1925 Wright returned as the representative from Randolph County determined to make the state bone dry. His targets were bootleggers and makers of home brew, and the state had an abundance of both. In the rural south, "Dubois County Dew" slaked the thirst of German-Americans while in Greene County Charles F. Fleming's father made beer and berry wine for his family's use. "They had all the liquor they wanted down there at Jasonville," said the future senator and secretary of state. "They called it 'white mule,' 'white lightning.' You could get it." Bootleggers were most prevalent in Lake County, in South Bend, and in Indianapolis. Robert K. Kyle, a reporter for the Indianapolis *News* and South Bend *News-Times*, had his supplier. "I could call up a bootlegger and in fifteen minutes he would have a bottle of gin there . . . . Damn good gin. Anywhere I would be. . . . They would deliver it in the Statehouse," he recalled. The Indianapolis *Times* estimated in 1925 that at least a thousand residents of the capital city peddled bootleg liquor.[97] Wright's solution to this widespread lawbreaking was "An Act Concerning Intoxicating Liquors." It would be remembered as the Wright Bone Dry Law of 1925.

House Bill 24 was possibly the most repressive bill ever introduced in the Indiana House of Representatives and certainly one of the most repressive to enter the statutes. It prohibited judges from suspending sentences on third offense, and strengthened the penalties upon third conviction. Those found guilty were liable to serve up to two years in the State Prison and pay a fine of up to $1,000. Nor was that the end of it. The Wright law also provided that prosecuting attorneys of the various counties should have a fee of $25 for each conviction of those violating any section of the act. The fee was not a docket fee payable whether the defendant was found guilty or not guilty, but a reward, premium, or bonus in which payment was contingent upon conviction. By contrast, Indiana law since 1875 had provided that the docket fee of prosecuting attorneys would be $5 for a misdemeanor on a plea of guilty, $7 for a misdemeanor on a plea of not guilty, and $10 for the trial and prosecution of a felony, including rape, murder, and other serious crimes. The Wright Bone Dry Law passed 89 to 1

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[96] *Senate Journal*, 1923, pp. 37, 77, 98, 105-6, 573, 604, 634, 708; *House Journal*, 1923, pp. 98, 104, 120, 172, 519, 586; *Laws*, 1923, pp. 70-71, 107; Indianapolis *Star*, January 23, 29, February 21, 1923.

[97] Madison, *Indiana Through Tradition and Change*, 41; Fleming oral history interview, 1st ms., 21, Indiana Division, ISL; Kyle oral history interview, 4th ms., 67-68, *ibid.*; Indianapolis *Times*, March 13, 1925.

in the House, 35 to 4 in the Senate, a good measure of the extent to which the temperance lobby ruled the hour.[98]

Six years after the Wright act became law, Representative John Dashwood Tudor Bold stated that its penalties went clearly beyond what the bills of rights in the constitutions of the United States and the state of Indiana envisioned. The Evansville Democrat, in calling for repeal, cited provisions from both documents regarding excessive fines, cruel and unusual punishment, and the necessity for penalties to be proportioned to the crime. "The General Assembly of Indiana in 1925 so forgot the tenets and precepts of liberty and justice as they form the foundation for the government of a free people, and so yielded to organized vindictive and fanatical forces of bigotry and intolerance . . . ," Bold concluded, that it enacted the law.[99]

The Indianapolis *Times* stood practically alone in editorial opposition to the Wright law, but even the *Times* did not detail for several years the hypocrisy of the lawmakers who enacted it. *Times* reporter John L. Niblack, who later served in the Senate at the 1929 and 1931 sessions, recalled that "there were no greater violators of the prohibition law than public officials . . . ." *Times* editor Boyd Gurley was more specific at a Senate hearing in 1931: the very night legislators passed the Wright law they "celebrated in drunken debauchery at the Claypool Hotel . . . ." Harold Feightner of the Indianapolis *News* did not use the term "debauchery," but he agreed "that night the Claypool Hotel resounded to the clink of glasses . . . ." According to Robert Kyle, reporters and politicians kept alcoholic beverages in the State House throughout the decade. When Harry G. Leslie was governor (1929-1933) the reporters "kept their wine right in the governor's office in the [water] cooler." Leslie was speaker of the Indiana House in 1925.[100] None of this was reported at the time, however, and it took the *Times* until 1931 to state the hard truth: "No law of fanatical parentage can be enforced. The Wright law is not only fanaticism but insanity written into statute."[101]

The Bone Dry Law did not end Wright's crusade on behalf of the Anti-Saloon League and the Woman's Christian Temperance Union. After the session ended in 1925, Wright moved to Indianapolis to become an auditor for the state Securities Commission. Determined to see that no step was taken to weaken his law, he won election as a representative from Marion County to the sessions of 1927 and 1929. In the meantime, temperance advocates demanded strict enforcement. County prosecutors all over the state made every effort to oblige. George W. Meyers, an active observer and participant in legislative affairs from

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[98] *House Journal*, 1925, pp. 53, 69, 125-27, 182-83, 437-38, 557, 602-3, 691, 811; *Senate Journal*, 1925, pp. 250, 253, 341, 418-19, 457-62, 517-18, 581, 641, 679-80, 711, 758; *Laws*, 1925, pp. 144-63.

[99] *House Journal*, 1931, pp. 976-77.

[100] Niblack, *The Life and Times of a Hoosier Judge*, 149; Indianapolis *Times*, February 12, 1931; Feightner oral history interview, 134, Indiana Division, ISL; Kyle oral history interview, 4th ms., 43, *ibid.*

[101] Indianapolis *Times*, January 21, 1931.

the early 1920s to 1972, recalled a deputy prosecutor in Lake County who claimed he had a good day on a Monday—he got $1,800 in fees on drunks. "That was just one court in Gary," Meyers added. "You had [courts in] Hammond, Gary, East Chicago, Whiting and Hobart." The job of prosecuting attorney under the Wright law was "better than the president of the United States in those days of fees. In fact . . . the treasurer's job in Lake County was probably better. It was worth one hundred twenty to twenty-five thousand a year in fees."[102] In 1927, when state Attorney General Arthur L. Gilliom disclosed that he had obtained whiskey for medicinal purposes for the wife of Governor Ed Jackson, dry forces wanted Gilliom arrested.[103] Excessive fees like those in Lake County and demands that the attorney general go to prison led directly to efforts to modify the Wright law.

The first attempt came from Republican John W. Scott, an attorney from Gary. Scott's bill in 1927 would have made the search and seizure portions of the Wright law conform to the probable cause provisions of the federal and state constitutions. During debate on the proposal, Representative Charles M. LaFollette of Evansville attacked Wright for representing himself as the spokesman for all "the good people of Indiana." In retaliation, the House committee on morals amended Scott's proposal to make evidence secured under a faulty warrant admissible in liquor cases. The amendment was sponsored by Wright and since it was even more drastic than the law itself, Scott withdrew his bill saying he did not want his name on such legislation.[104]

LaFollette went after the prosecutors' fees and the section that made empty bottles evidence of guilt. According to LaFollette there were three deputy attorneys general in Marion County, "none of them . . . an outstanding attorney," who made about $20,000 apiece every year from the fees. His bill, which would have eliminated the fees entirely, was indefinitely postponed on motion by Wright.[105] Frank D. Nolan, a Democrat and a farmer from Montgomery County, introduced legislation in 1927 to give the Horse Thief Detective Association power to enforce liquor laws. His bill was reported favorably by the committee on public morals but no further action was taken.[106]

In 1929 the General Assembly passed a so-called "college bootlegger" bill imposing drastic penalties (including life imprisonment on third conviction) on those who sold liquor to minors. Senator Carl M. Gray, a Democrat from Petersburg in Pike County, fathered the bill. Gray belonged to the minority party, however, and the bill did not pass until Republican Ralph W. Adams of Shelbyville substituted his name for Gray's as sponsor. Members of both houses

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[102] Meyers oral history interview, 287, Indiana Division, ISL. Meyers was a lobbyist and paid advisor to Republican legislators as early as 1925. In 1945 he was appointed the first attorney for the House, a position he held each session through 1957, and except for the 1965 sessions he served as House parliamentarian from 1961 to 1972.

[103] Feightner oral history interview, 56, 136, *ibid.*

[104] Indianapolis *Star*, January 27, 29, 1927; *House Journal*, 1927, pp. 93, 150, 177, 185.

[105] Indianapolis *Star*, February 3, 1927; *House Journal*, 1927, pp. 118, 231.

[106] Indianapolis *Star*, February 9, 1927; *House Journal*, 1927, pp. 179, 250.

and both parties voiced reservations but Frank Wright was pleased. Wright said he was willing to send persons to prison for life upon third conviction because "no penalty can be too severe for those who debauch youth." Wright's pleasure was short-lived; Governor Leslie vetoed the measure.[107]

Democratic Senator Chester A. Perkins attempted to introduce a modicum of reason to temperance deliberations in 1929 but failed. Perkins, a South Bend contractor whose legislative career spanned the decade 1923 to 1933, thought that:

> Absolute prohibition as a temperance measure is not making good, not from want of adequate legislation but from lack of acceptance by the people. We should have less laws and more obedience.
>
> What the country needs is an adjustment of the prohibition laws to fit what the people are doing instead of what they are saying publicly.
>
> The first move is amendment or repeal of the 18th amendment.[108]

First Perkins sponsored a resolution asking Congress to change the Eighteenth Amendment to permit control of liquor rather than prohibition. (This was indefinitely postponed.) Then, during debate on the college bootlegger bill, Perkins offered an amendment that would have provided life imprisonment for all members or employees of the legislative, executive, or judicial branches of the state and federal governments who were convicted three times of liquor violations in Indiana. The amendment was tabled.[109]

A Democratic House at the 1932 special session moved to repeal the Wright Bone Dry Law. Speaker Walter D. Myers of Indianapolis presided while his hand rested on a gavel of black walnut from southern Indiana. According to legend, Myers' gavel came from a tree in which a bootlegger slung his charred kegs of whiskey to season. When the vote for repeal was announced Myers dropped the gavel "with a tremendous clatter upon a piece of steel on the rostrum." Outside the railing, silent, "Frank E. Wright, a political castoff, stood practically unnoticed in the throng of spectators that packed the House of Representatives . . . ." As the lawmakers and gallery broke into cheers, John M. Cantley of Logansport rejoiced: "England has its ale, Germany its beer, France and Italy their wine, Russia its vodka, but we, being cosmopolitan, give you your choice." Cantley spoke prematurely. The Republican-controlled Senate killed the repeal by a vote of 26 to 22.[110] Repeal of the Wright law and the Eighteenth Amendment came with the return to power of the Democratic party in the landslide of 1932.

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[107] Indianapolis *Star*, February 21, 1929; *Senate Journal*, 1929, Gray bill, 42, 46, 65-67, 77-78, 90-91, Adams bill, 84, 97, 152-53, 189-90, 510, 547, 556, 946; *House Journal*, 1929, Gray bill, 109, 114, Adams bill, 201, 212, 235-36, 392, 462, 529, 793.

[108] Perkins file, Centennial History, ISL.

[109] Indianapolis *Star*, January 23, February 27, 1929.

[110] Indianapolis *Star*, July 26, August 11, 1932; *House Journal*, 1932 (s.s.), 35, 70, 116-22, 173-77, 197-201, 576, 578-79, 609-10, 625-26; *Senate Journal*, 1932 (s.s.), 467-70.

1925: Legislative Watershed

In every era certain sessions of the Indiana General Assembly served as watersheds either because they epitomized the times or set the boundaries for succeeding sessions. The session of 1835-1836, epitomizing as it did the pioneer lawmakers' fascination with internal improvements and their propensity for fiscal irresponsibility, was one such. The long session of 1851-1852, which implemented the new Constitution and completely revised the statutes, was another. The session of 1933, during which an overwhelming Democratic majority established an agenda within which state government would operate for thirty years, was a third. The 74th General Assembly of 1925 was the watershed session between 1891 and 1929, the time when the moral righteousness of the era reached its culmination with passage of the Wright Bone Dry Law. The session convened at the height of Republican postwar ascendancy when nativist sentiment as embodied by the Ku Klux Klan also peaked. John Higham concluded that the Klan's national success "lay essentially in the mood and circumstances" of the 1920s. He cited agricultural depression, prohibition, immigration, disillusionment, isolationism, and reaction as the chief contributors to the Klan's growth. "Never before had a single society gathered up so many hatreds or given vent to an inwardness so thoroughgoing," said Higham.[111] The Ku Klux Klan reached its zenith in Indiana in 1925.

Secretary of State Ed Jackson granted a charter to the Knights of the Ku Klux Klan to operate in Indiana on August 13, 1921. The organization described itself as "a purely benevolent and eleemosynary society" and "a patriotic fraternal order . . . ."[112] David Curtis Stephenson, the man who made the Klan important in state politics and who was thought to control the 1925 General Assembly, was born in Texas and lived for a time in Oklahoma. He arrived in Evansville in 1920. Within a year he joined Evansville Klavern Number 1 where he participated in the fight against the Pope, Jews, blacks, and foreigners. A spellbinding orator, Stephenson rose rapidly to Grand Dragon of the Indiana Realm and moved to Indianapolis. From 1922 to 1925 he made the capital city "the unrivaled bastion of the Invisible Empire in Mid-America." At the same time he became a millionaire as some 300,000 Hoosiers paid $26 apiece for a hood, bedsheet, and "naturalization papers" to join the order. Along the way, Stephenson captured control of the Republican party in Marion County, became a formidable factor in the state party, and expressed ambition to become either a United States senator or president of the United States.[113] In 1924 national Imperial Wizard Hiram Wesley Evans expelled Stephenson on charges that included pocketing initiation fees and named Walter Bossert of Liberty as Grand Dragon of the

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[111] Higham, *Strangers in the Land*, 289.

[112] John A. Davis, "The Ku Klux Klan in Indiana, 1920-1930: An Historical Study" (Ph.D. dissertation, Northwestern University, 1966), 29.

[113] Jackson, *The Ku Klux Klan in the City*, quotation, 144, Stephenson's career, 146. For the costs of Klan regalia and the number who joined, see Justin E. Walsh, "Knights in Bedsheets," Indianapolis *Times*, May 27, 1956.

"regular" or nationally affiliated Indiana Klan. Stephenson immediately had himself elected Grand Dragon of a newly "autonomous" Indiana Klan. "The struggle . . . ," said David M. Chalmers, "was over power." By 1924 a "Bossert faction" vied with a "Stephenson faction" for control of the Indiana Klan, and more importantly, control of state government.[114] Indiana was entering one of the most politically corrupt eras in its history.

The corruption reached the highest levels of local and state government, and into the Indiana delegation to the United States House of Representatives. Warren T. McCray, elected governor in 1920, was convicted in 1924 of using the United States mails to defraud his creditors and ended his term in the federal penitentiary at Atlanta, Georgia. McCray's secretary of state, Ed Jackson, was Stephenson's middleman in an attempt to bribe McCray with $10,000 and a promise of nonprosecution in the mail fraud case. All the governor had to do was name a Stephenson Klansman to the vacant office of Marion County prosecutor, but the governor refused the bribe. Jackson, elected governor in 1924 when Stephenson contributed more than $200,000 to his campaign, escaped prison only because the statute of limitations prevented his conviction in 1928. The most sordid scandal of the decade resulted in Grand Dragon Stephenson being convicted in November, 1925, of murdering a State House secretary. Stephenson's conviction marked the beginning of the end of Klan dominance. In 1927 Mayor John L. Duvall of Indianapolis was convicted, along with six Republican members of the City Council, of violating the Corrupt Practices Act by purchasing election in 1925 with Klan money. Two Republican members of the 1923 General Assembly, Ralph E. Updike, Sr., of Indianapolis and Harry E. Rowbottom of Evansville, were elected to the United States House of Representatives in 1924 while boasting of their membership in the Klan. Stephenson financed Rowbottom's campaign after Rowbottom promised Stephenson all of his federal patronage. After the congressman left the House in 1931, he was subsequently sentenced to six months in prison upon conviction of selling postmasterships.[115]

The legislature that convened in January, 1925, is remembered as the Ku Klux Klan session. Yet neither historians nor astute observers have succeeded in determining how many legislators belonged to the secret order. David M. Chalmers stated without proof that "Most of the pro-Klan members of the lower house tended to follow Evans and Bossert. The senators . . . belonged to Steve."[116] James H. Madison wrote that "While the number of Klan legislators is not known, it was generally assumed that the majority were either Klansmen or very

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[114] David M. Chalmers, *Hooded Americanism: The First Century of the Ku Klux Klan, 1865-1965* (Garden City, N.Y., 1965), Stephenson's career, 162-72, quotations, 168. For a detailed description of the Bossert-Stephenson fight, see Davis, "The Ku Klux Klan in Indiana," 88-95, 185-88, 203-9, 257-62, and *passim*.

[115] For the influence of the Klan and the political corruption of the decade, Madison, *Indiana Through Tradition and Change*, 44-75; for the McCray, Jackson, and Duvall scandals, Niblack, *Life and Times of a Hoosier Judge*, 187-225, 241-45; for Rowbottom's difficulties, Rowbottom file, Centennial History, ISL, and Chalmers, *Hooded Americanism*, 170.

[116] Chalmers, *Hooded Americanism*, 170.

sympathetic to the organization and that the legislature would do the Klan's bidding." Harold Feightner asserted that the session was "probably overwhelmingly Klan but nobody will ever know."[117] The difficulty of determining numbers is compounded because of the Bossert-Stephenson split that prevented a Klan monolith in the 74th General Assembly. Instead the session was dominated by factional fighting between Klansmen. The strategies involved were described by the Indianapolis *News* as "beat[ing] whatever the other fellow is for."[118] Republicans dominated both factions, but each also had some Democratic legislators as adherents. There were, in addition, Republicans who spurned both groups, as did most Democrats.

Eighty-four Republicans and sixteen Democrats constituted the 1925 House of Representatives. Seventy-five per cent of the members were born in Indiana, and 56 per cent were natives of the district they represented. More than half were of English, German, or Scotch-Irish ancestry. Two of the Republicans, Carl A. Horne (Ripley County) and Murdo "Max" Murray (LaGrange County), were foreign-born—Horne in Germany and Murray in Scotland. None of the representatives was black, and none was Jewish. There were two women, Republicans Elizabeth H. Daugherty (Wabash County) and Antoinette C. Hagenwald (Vigo County); two of the Democrats, John P. Chrisney of Spencer County and Julius G. Schwing of Lawrenceburg, were Roman Catholics. (Schwing cast the only vote against the Wright Bone Dry Law.) Sixty-nine per cent of the House professed affiliation with the Methodist, Presbyterian, Christian, or Baptist churches, while 8 per cent attended no church. One third of the members were farmers, twenty-two were lawyers, the two dominant occupations. Bryan K. Johnson (Bartholomew County) and David E. Noland (Parke County) were Methodist ministers; Willis E. Gill (Putnam County) was a Baptist minister; and Carl Horne was a Lutheran minister. One third of the representatives never attended college; one fourth of them had taught school on the elementary or secondary level. Twelve were veterans of World War I and belonged to the American Legion. At least sixty-six representatives, including ten Democrats, were Freemasons.

In the Senate there were thirty-two Republicans and eighteen Democrats. Seventy-six per cent were born in Indiana and 48 per cent were natives of the district they represented. A majority was of English, Scotch-Irish, or German ancestry. Republican James J. Nejdl of Lake County and Democrat John Sweeney of Perry County were foreign-born. Nejdl, elected president *pro tempore* after a bitter fight, was born in Plzen, Czechoslovakia; Sweeney was born in County Cork, Ireland. Sweeney and John C. Crosby of Huntington were the only two Roman Catholics; there were no blacks or Jews. Fifty-eight per cent of the senators affiliated with the Methodist, Presbyterian, Christian, or Baptist churches.

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[117] Madison, *Indiana Through Tradition and Change*, 66; Feightner oral history interview, 23, Indiana Division, ISL. The ambiguity regarding numbers is heightened by the fact that not one of the 150 members who filled out biographical questionnaires for the State Library listed the Ku Klux Klan as an affiliation, although almost every other conceivable fraternal or patriotic organization appears.

[118] Indianapolis *News*, February 28, 1925.

Seven professed to belong to no church. Farming and law were the dominant occupations, and fourteen senators had taught at one time. Six never attended a college and three had fought in World War I. Twenty-five Republicans and eleven Democrats were Freemasons. Native, white, Protestant Americans constituted the overwhelming majority in both houses.[119]

While, historically, more Freemasons (including 48 per cent of all twentieth century lawmakers thus far) have served in the General Assembly than members of any other fraternal group, the 102 Freemasons out of 150 lawmakers at the 1925 session was that organization's largest representation. It was the only time any organized group other than a political party constituted a two-thirds majority of the membership. John Higham stated that Klan recruiters "usually started in a community by soliciting at the Masonic lodges."[120] After examining Walter Bossert's membership files in 1940, reporter Robert Kyle concluded that the Ku Klux Klan "centered" around Masonry because so "many members I knew were Masons, Methodists and American Legionnaires."[121] Dwight L. Smith, historian of Indiana Freemasonry, observed that "the hooded order employed every device to fasten itself upon the Masonic Craft . . . ." This caused serious dissension in the lodges, Smith said, particularly when Masonic Temples were used for Klan meetings and Masons in good standing who would not join the Invisible Empire were dubbed "thirty per cent Americans" by their brother Masons.[122] Since D. C. Stephenson was a Freemason, it would be easy to infer, given the evidence supplied by Kyle and Smith and the historic animosity between Freemasonry and the Roman Catholic church, that the 1925 session was a Klan session because of the extraordinary number of Freemasons among the membership. But the case of Herbert P. Kenney, Sr., a New Albany Democrat, a Freemason, and a Protestant, demonstrates the need for caution in formulating such inferences.

Kenney served one term as Floyd County prosecutor before his election to the General Assembly. He was outspokenly anti-Klan and defended Catholics. In opposing the Murden bill, which would have in effect closed parochial schools, Kenney said: "When I came to this session . . . I held up my right hand and swore that I would uphold the Constitution." He added his belief that the measure was "absolutely unconstitutional. The legislature has no right to force parents . . . to send their children where they do not desire them to go, or to

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[119] Data based upon quantification of information in *A Biographical Directory of the Indiana General Assembly*, Vol. 2, *1901-1984*. During the twentieth century thus far, 77 per cent of lawmakers have been born in Indiana, and 53 per cent have been natives of the district they represented. About 44 per cent have been known to be of English, Scotch-Irish, or German ancestry. Methodists (25 per cent), Presbyterians (12 per cent), Christian Church (11 per cent), and Baptists (6 per cent) have constituted 54 per cent of all who have served. Eleven per cent have been Roman Catholic. More than one fourth have been lawyers, and one fifth farmers. Thirty-two per cent never attended college; 27 per cent served in the armed forces; and 20 per cent taught for at least one year.

[120] Higham, *Strangers in the Land*, 289.

[121] Kyle oral history interview, 1st ms., 7, Indiana Division, ISL.

[122] Dwight L. Smith, *Goodly Heritage: One Hundred Fifty Years of Craft Freemasonry in Indiana* ([Franklin, Ind.], 1968), 224-25.

force them to accept any special course of study."[123] When Klan legislators tried to frighten Kenney into supporting one bill at the session, he borrowed "an immense pistol" at a friend's pawnshop on Indiana Avenue. This he tucked inside his coat and a day or two later, when Klansmen threatened him again, he pulled his coat back, revealing the pistol. Klansmen never bothered Herb Kenney again.[124]

The Klan factions began maneuvering early. Six days before the session convened Walter Bossert called a meeting in Indianapolis to discuss a "program of legislation." Bossert Klansmen met at the Lincoln Hotel on January 6 to select their candidate for speaker of the House. They settled finally on George Washington Freeman, a Baptist from Kokomo, a former teacher and school administrator, and the manager of an abstract company. The next day Bossert and Robert F. McNay, the Grand Titan of the Fifth Province of the Realm of Indiana, organized a concerted campaign for Freeman prior to the Republican caucus on the evening of January 7. According to press accounts, the Stephenson group favored Harry G. Leslie, who also had Governor Jackson's backing. Leslie won caucus endorsement over Freeman on the third ballot, 42 to 39. On January 8 he defeated Democrat Thurman A. Gottschalk for speaker 82 to 16 in a strict party-line vote.[125]

The Klan's intramural bickering caused Speaker Leslie immediate problems. John C. Sherwood, a Lawrence County farmer and former school teacher, had been slated by the Jackson administration for the post of Republican caucus chairman until Freeman's (*i.e.*, Bossert's) surprisingly strong showing for speaker caused Leslie to have second thoughts. The session got underway without a majority party caucus chairman. Indeed, none was elected until after the session was two-thirds over, a situation which the Indianapolis *News* described as unprecedented. The *News* also reported that in mid-February Bossertites considered unseating Leslie but when sixteen Democrats announced they would stand by the speaker such talk ended. By February 16 the Republicans had to elect a caucus chairman because of the need to put through an appropriations bill. Charles M. Clark, one of the few lawmakers from Marion County who supported Bossert rather than Stephenson, was elected 40 to 37 over Sherwood.[126]

Once the speakership was settled, the next fight loomed over control of the committee on education in the lower house. According to a statement from Bossert headquarters, a Klansman must be chairman to ensure a "better" program

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[123] Indianapolis *News*, February 26, 1925.

[124] *Ibid.*, October 9, 1954. The story of Kenney's pistol is substantiated by George W. Meyers oral history interview, 241, Indiana Division, ISL. In 1933 Kenney worked for Governor Paul V. McNutt's "Bill Factory" at the Indianapolis Athletic Club and drafted the bill that eliminated the Horse Thief Detective Association. For the repeal bill, see Harold Feightner oral history interview, 140, *ibid.*; for Kenney's work at the Bill Factory, see below, p. 443.

[125] Indianapolis *Times*, January 2, 3, 6, 7, 8, 1925. In the Republican caucus the Marion County delegation, controlled by Stephenson, voted solidly for Leslie over Freeman. Indianapolis *News*, January 6, 8, 1925.

[126] Indianapolis *Times*, January 7, 1925; Indianapolis *News*, February 14, 17, 1925.

of "Americanization" for public schools. The Klan called its school agenda "Americanization" because it centered on the American flag, the Bible, and the federal and state constitutions. According to the Bossert spokesman "The politicians are either for it or against it; there is no middle ground." Speaker Leslie told the press that he would name no one to a committee who had "a wrong motive." He added "I will name my own committees. You can make that just as strong as you like." Since Stephenson's followers also favored "Americanization," the bitter fight predicted by the press failed to develop. On January 12 Leslie named as chairman James M. Knapp, the man Maurice Early of the Indianapolis *Star* said was favored by "the Bossert element."[127] Although apparently not a victory for either faction, the choice of Knapp guaranteed that the House would consider a chauvinistic "Americanization" program centered around the Bible and the flag.

Since both Bossert and Stephenson were known to have ordered their followers to defeat "whatever the other fellow is for," it is impossible to determine Klan allegiance on the basis of House roll calls. Both sides circulated white slips like those reproduced in the Indianapolis *News* of February 28, with such instructions as "HB 287. KILL"; "SB 242. OK"; "HB 408. KILL." H.B. 287 was a bill favored by Stephenson to establish a nutrition and diet curriculum in the public schools. After Bossert passed the word to kill the bill, it failed the first time on third reading for lack of a constitutional majority and then passed 53 to 35 on a second vote.[128] When these slips came to the attention of Speaker Leslie, he denounced "outside influences" and threatened to lock the doors and name names from the rostrum.[129] But he did neither.

The Klan caused more problems in the House because proportionally there were more Klansmen there than in the Senate. While an exact number cannot be estimated for either house because of the Bossert-Stephenson split, there were issues on which the two factions united. These included displaying the flag in public schools, mandatory instruction in the Bible, and anti-Catholicism. Since measures dealing with the flag and the Bible enjoyed nearly unanimous and bipartisan support, roll call votes on these issues are useless in determining sympathy for the Klan. For purposes of this analysis, therefore, a key vote indicating sympathy for the Klan is one where there was a roll call and where passage of the bill would have substantially injured the Catholic church, its teaching orders, or parochial schools. In the House there were three such roll calls: an unexpected 63-27 vote to adopt a minority report recommending passage of a bill that forbade teachers in public schools to wear religious garb, a 67-22 vote on passage of the same bill, and a 61-22 vote on passage of the Murden

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[127] Indianapolis *Star*, January 9, 13, 1925; Indianapolis *News*, January 9, 1925.

[128] *House Journal*, 1925, pp. 276, 357, 424, 558, 597, 798, 821, 908. S.B. 242, which would have reorganized the state Board of Education, never reached final action in the House. *Ibid.*, 516, 767, 879-80. H.B. 408, which would have established a state board of textbook examiners, passed the House 87 to 3 but was indefinitely postponed in the Senate. *Ibid.*, 423, 444, 649, 759-60; *Senate Journal*, 1925, pp. 830, 938.

[129] Indianapolis *News*, February 28, 1925.

bill mandating the same textbooks and curriculum for private as for public schools. Forty-five representatives voted for the Klan position on each of these roll calls; twenty-two members did not vote affirmatively on any of them. Since only three of the pro-Klan voters were Democrats, this left a total of forty-two Republicans who could be considered as at least sympathetic to the Klan. Of the twenty-two representatives who never voted affirmatively, eleven voted against the Klan on all three roll calls, ten missed at least one vote, and Speaker Leslie did not vote on any bills as a matter of policy during the session.[130]

In the Senate there were four key roll calls on Catholic issues. Two dealt with a Senate bill prohibiting the wearing of religious garb or symbols by teachers in public schools. On the first, the Senate voted 26-22 to table a motion recommending printing of the bill; on the second, and more crucial vote, the count was 6-40 against the minority report recommending passage of the bill. Another Senate bill would have barred graduates of parochial schools from teaching in public schools. It required that public school teachers must attend and graduate from a public elementary and high school. Graduates from certain non-public schools such as Culver Military Academy were exempted from the requirement. The motion to adopt the minority report recommending passage of the bill failed to pass by a 5-41 vote. The fourth key vote occurred on the House religious garb bill which passed to third reading before failing 17-19.[131]

Twenty-five senators always voted against the Klan. Sixteen of these (eleven Republicans and five Democrats) were present for all four roll calls; each of the other nine (three Republicans and six Democrats) missed one of the four. Thus, one half of the Senate never cast a pro-Klan vote on bills obviously directed

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[130] For roll calls, see *House Journal*, 1925, pp. 248, 429-30, 623-25. The three pro-Klan Democrats were Edward B. Bender, a Methodist farmer from Boone County; James J. Reeder, a Lutheran farmer from Carroll County; and Bryan K. Johnson, a Methodist minister from Bartholomew County. The eleven who voted against the Klan each time were Woodson S. Carlisle, Sr., of St. Joseph County; Lawrence E. Carlson of Huntington County; John P. Chrisney of Spencer County; Brenton A. Devol of Clinton County; William T. Dunlevy of Clark County; John G. Hammitt of Jay County; William B. Harris of Monroe County; Herbert P. Kenney, Sr., of Floyd County; Walter B. Korff of Vanderburgh County; Franklin K. McElheny of Miami County; and Julius G. Schwing of Dearborn County. Of these eleven, five were Democrats, six were Republicans. The ten who missed at least one vote were James C. Claypool, Samuel J. Farrell, Thurman A. Gottschalk, Jay Glenn Harris, George L. Hoffman, William J. Kincaid, John W. Kitch, Oliver P. Lafuze, J. Frank Smith, and John W. Thiel. The forty-two Republicans who voted with the Klan on these roll calls were: William J. C. Babcock, Jr., Harry O. Barr, Charles E. Bebinger, Joshua B. Carney, Lewis C. Carter, French Clements, Bruce E. Cooper, Clyde F. Cooper, Elizabeth H. Daugherty, Harry W. DeHaven, John W. Ebaugh, George W. Elliott, George W. Freeman, Antoinette C. Hagenwald, William Y. Hinkle, Carl A. Horne, Walter A. Huffman, John A. Hughes, Isaac H. Hull, Perry Johnson, Charles V. Kellar, William H. Kissinger, Jacob F. P. Knepper, Thomas W. McCutchan, William A. McMinn, Charles Mendenhall, Ira A. Mendenhall, Francis E. Miller, Truman G. Murden, David E. Noland, Timothy C. O'Connor, Russel R. Ridenour, Willis E. Roe, Perry W. Rowe, Frank O. Sheets, John C. Sherwood, Perry Smith, Paul L. Summy, Charles M. Trowbridge, William F. Werner, William A. Wheeler, and Caleb C. Williams.

[131] For roll calls, see *Senate Journal*, 1925, pp. 76, 82-85, 113-15, 771, 922. The Murden bill, directed against parochial schools, which passed the House, was indefinitely postponed in the Senate by a 23-10 margin, but there was no roll call. *Ibid.*, 946.

against the Catholic church. John S. Alldredge (Madison County), Don Roscoe Martin (Cass County), Earl W. Payne (Monroe County), Christopher H. Pell (Clay County), and George W. Sims (Vigo County) were the five senators who always voted with the Klan on these bills. Payne was a Democrat, the other four were Republicans. Two senators, Democrat James P. Davis and Republican William Weldon Lambert, never voted against the Klan, but they each missed two votes. As a result, the Klan's hard-core anti-Catholic program was not only stopped in the Senate, it never came close to passage.[132]

The Klan did not control the Indiana Senate in 1925 primarily because of the constitutional provision for four-year terms whereby one half of the seats are filled at each biennial election. This meant that twenty-five incumbents were neither subject to the nativist hysteria that marked the 1924 general election nor as likely as those who were candidates to be indebted to D. C. Stephenson or Walter Bossert. Sixteen of the eighteen Democrats were holdovers; fourteen of these never voted with the Klan on any of the four roll calls. Two holdover Democrats voted to pass H.B. 195, the House religious garb bill. Nine of the holdovers were Republicans; five of them voted against the Klan on each roll call, four voted to pass H.B. 195. Only two Democrats were elected in 1924. One of them, Earl W. Payne, was identified in the press as a Bossert Klansman; the other, Thomas H. Branaman, voted against the Klan on each roll call. Twenty-three Republicans were elected to the Senate in 1924. On the four roll calls, six of these Republicans voted against the Klan each time, three never voted with the Klan, and three never voted in favor of any of the bills. The four Republicans who always voted with the Klan were all elected in 1924, as were six Republicans who voted to pass H.B. 195. One returning Republican, Cyrus Leroy Leonard of Kosciusko County, voted with the Klan on three of the four votes.

The Klan lost whatever chance it had to control the Senate when James J. Nejdl was reelected from Lake County and then elected president *pro tempore*. Nejdl was bitterly opposed by Bossertites in Lake County during the election campaign because he was foreign-born. They opposed him for the Senate post for the same reason, supporting instead Thomas A. Daily of Marion County. On the first ballot for president *pro tempore* in the Republican caucus, Nejdl and Daily tied with 16 votes each. On the second ballot, Nejdl won 17 to 15 and Daily immediately charged that he was "double crossed" by a "political mountebank" named D. C. Stephenson. Five of Nejdl's supporters—Alldredge, Delbert V. Blackburn, Leonard, Martin, and Sims—constituted a Klan hard core on the basis of anti-Catholic votes yet they still voted for Nejdl, a Bohemian

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[132] The sixteen who always voted against the Klan were John C. Crosby, Thomas A. Daily, William E. English, Chester P. Erni, Denver C. Harlan, Timothy H. Holdeman, Carl E. O. Holmes, Frank W. Merry, Robert L. Moorhead, James J. Nejdl, Edward O'Rourke, Jr., William K. Penrod, Chester A. Perkins, George L. Saunders, Ray M. Southworth, and John Sweeney. The nine who never voted with the Klan but abstained at least once were Charles S. Batt, Thomas H. Branaman, Frederick M. Dickerman, Perry H. Easton, Rowland H. Hill, John F. Lochard, Jacob Lutz, Hudson Lyle Shank, and Robert B. Shirley.

immigrant.[133] Daily's accusation is additional evidence that Stephenson was not nearly as interested in the Klan nativist program as he was in defeating Bossertites and thus controlling patronage. When Nejdl won the presidency and accepted the vital chairmanship of the education committee six days later, the death knell was sounded for the more pernicious parts of the Klan agenda for 1925.[134]

Clyde F. Cooper, a former teacher who operated a real estate and insurance agency in Terre Haute, sponsored much of the Klan program in the House. A Presbyterian, Freemason, and Legionnaire, Cooper authored bills that made June 14 Flag Day and required school corporations to purchase and display the American flag. Bossert headquarters identified the latter bill as part of "our program to instill in the minds of children respect for the flag." The Flag Day bill passed the House 90-0, the Senate 41-1; the school flag bill passed the House 92-0, the Senate 29-9.[135] Cooper also sponsored the bill that forbade teachers in public schools to wear religious garb. Cooper denied that the bill was directed at the Catholic church; its sole purpose was to exclude "religion from the public schools . . . ." The Indianapolis *News* stated that the garb bill was "one of several 'Americanization and education bills' in the program backed by Walter Bossert . . . ." It failed in the Senate after passing the House.[136]

Truman G. Murden, a farmer and merchant from Cass County, sponsored the bill mandating that the same course of study and the same textbooks used in public schools must be used in private and parochial schools, that teachers in private schools must be licensed as public school teachers were, and that examinations for promotion from one grade to another must be the same in private schools as in public schools. Minority leader Thurman A. Gottschalk said on the floor that the bill was unconstitutional and would "practically abolish every parochial school in the state of Indiana." The bill passed the House, but was killed in the Senate.[137] William A. McMinn, who owned a coal company in Elwood, introduced the most extreme anti-Catholic measure, a bill that would

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[133] For Nejdl's election, Indianapolis *Times*, January 8, 1925; for the Nejdl and Daily supporters, *ibid.*, January 10, 1925; for Daily's charges, *ibid.*, January 14, 1925.

[134] Indianapolis *News*, January 13, 1925.

[135] *House Journal*, 1925, Flag Day bill, 73, 168, 245, 404-5, 691, 812, school flag bill, 90, 98, 145, 212, 223-24, 550, 664, 717; *Senate Journal*, 1925, pp. 610, 706; *Laws*, 1925, pp. 180-81, 120; quotation, Indianapolis *News*, January 16, 1925.

[136] Indianapolis *Star*, February 18, 1925; Indianapolis *News*, February 5, 1925. In 1919 Attorney General Ele Stansbury had ruled it was illegal for teachers in public schools to wear religious garb. He did so in response to a Spencer County citizen who objected to Catholic nuns teaching there in the public schools. The ruling would have removed nuns from public schools in twenty-five counties, but it was reversed by Attorney General Ulysses S. Lesh in 1921. In his ruling, Lesh said that in the absence of a statute forbidding teachers to wear religious garb in public schools, the nuns could not be removed. The Catholic newspaper in Indianapolis stated "This settles the matter in Indiana unless some legislator is foolhardy enough to introduce an educational bill which will designate the Cross of Christ as a religious insignia or mark of sectarian garb . . . ." Hence the Klan desire for a law proscribing religious garb in 1925. Indianapolis *Indiana Catholic and Record*, April 15, 1921.

[137] *House Journal*, 1925, pp. 623-25; *Senate Journal*, 1925, p. 946; Indianapolis *News*, February 26, 1925.

specifically abolish parochial schools. The measure required all children from six to sixteen years of age to attend schools maintained by public funds (private military schools were excepted). While it would have allowed released time for religious instruction, parents sending children to non-public schools could be fined or jailed. McMinn, a Freemason and member of the Christian Church, withdrew his bill when it failed to gain support.[138]

George W. Sims, a lawyer and a telegrapher for American Telephone and Telegraph Company in Terre Haute, was the leading proponent of Klan bills in the Senate. A Methodist and Freemason, Sims authored Senate versions of a religious garb bill, an antiparochial school bill, and a bill requiring public schools to purchase and display the American flag. He also sponsored a bill requiring reading of the Bible in public schools, and another that made instruction in the constitutions of the United States and the state of Indiana a required part of the public school curriculum. The constitution and flag bills sponsored by Sims passed the Senate (38-0) and went on to become law.[139] John P. Chrisney, representing Spencer County with its Klan-targeted nuns teaching in public schools, sponsored a House bill that became law mandating instruction in the two constitutions in private as well as public schools. He probably put his name on the bill to show that Roman Catholics could also be patriotic.[140]

The "Americanization" and anti-Catholic bills in 1925 were the ones most clearly identified with the Ku Klux Klan. They were always supported by Bossert people in the press and secured the backing of Stephenson's followers despite the fact that Stephenson himself was clearly more interested in patronage than "Americanization." The Republican state chairman explained Republican preferences to the Indianapolis *News*: "We want men on the highway commission that will be responsive to the party that wins elections."[141] Stephenson made it absolutely clear what kind of men he had in mind. He told the Marion County Grand Jury in 1927 that he had spent $227,000 on Jackson's gubernatorial campaign. "I had a written contract with him that I was to get it back by getting the coal contract from the State, by control of the Highway Commission, and of the State Purchasing Department."[142] The House tried to give Stephenson the Highway Commission on the next to last day of the session by passing a "Road Ripper Bill" introduced by Representative William H. Kissinger. The bill proposed to repeal all previous legislation on the subject and would have empowered Governor Jackson to appoint a new Highway Commission with a new director. It was opposed by many Bossertites, all but one Democrat, plus the Indiana Farm Bureau Federation and the Hoosier State Automobile Association. Kissinger's bill passed 58 to 36 and the roll call was a litmus test regarding loyalty to Stephenson.

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[138] *House Journal*, 1925, pp. 451, 524; Indianapolis *Star*, February 19, 1925.

[139] *Senate Journal*, 1925, pp. 293, 341, 394, 543-44, 959, 964; *Laws*, 1925, pp. 22, 284; Indianapolis *Star*, January 23, 1925.

[140] *Laws*, 1925, pp. 443-44.

[141] Indianapolis *News*, March 7, 1925.

[142] Niblack, *Life and Times of a Hoosier Judge*, 223.

Fifty-seven Republicans and one Democrat voted yes; twenty-one Republicans and fifteen Democrats voted no. Eight of the dissenting Republicans (Joshua B. Carney, Lewis C. Carter, Antoinette C. Hagenwald, Isaac H. Hull, Charles V. Kellar, Frank O. Sheets, John C. Sherwood, and Paul L. Summy) always voted with the Klan on the anti-Catholic roll calls, as did two of the dissenting Democrats (Edward B. Bender and Bryan K. Johnson). Three Republicans who always voted with the Klan against Catholicism missed the "Road Ripper" vote (French Clements, George W. Freeman, and Carl A. Horne). Thus thirteen probable Klansmen, including Walter Bossert's candidate for speaker of the House, did not vote for Stephenson's highway bill. This left thirty-two probable Klansmen as Stephenson's hard core in the House.[143]

The Kissinger bill reached the Senate on the last day of the session. According to Stephenson's private secretary, Court Asher, it died there because Lieutenant Governor Frederick Harold Van Orman, Sr., "put that bill down and kept it buried." Asher added that when the session ended without a Highway Commission reorganization act, Stephenson wanted the governor to call a special session.[144] Before the governor could act, Stephenson was indicted on a murder charge. Two years later the ex-Grand Dragon took leave from a life term in the State Prison at Michigan City to testify about political corruption before the Marion County Grand Jury. On that occasion he evaluated his Klansmen in the 1925 House: "Those fellows didn't amount to anything. Representative in the Legislature is no good, only for sixty days, and when you get through with him is mere chaff. Very few of them you can ever put over on the public twice."[145]

The Wright Bone Dry Law was the most important law enacted by the 74th General Assembly. It passed both houses nearly unanimously, as did Klan "Americanization" bills dealing with the flag and the constitutions of the United States and the state of Indiana. While non-Klansmen considered bills of the latter type trivial, they nonetheless voted for them. The Klan's anti-Catholic bills, on the other hand, always failed in the Senate after passing the House, as did the patronage bills desired by Stephenson. The session did enact some good and clearly non-Klan measures: it prohibited the sale of unpasteurized milk; it authorized purchase of the Indiana Dental College by Indiana University; and it

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[143] *House Journal*, 1925, pp. 855-56; Indianapolis *News*, March 6, 7, 1925. James J. Reeder was the only Democrat. The thirty-one Republicans who voted with Stephenson and always voted against the Catholic church were: William J. C. Babcock, Jr., Harry O. Barr, Charles E. Bebinger, Bruce E. Cooper, Clyde F. Cooper, Elizabeth H. Daugherty, Harry W. DeHaven, John W. Ebaugh, George W. Elliott, William Y. Hinkle, Walter A. Huffman, John A. Hughes, Perry Johnson, William H. Kissinger, Jacob F. P. Knepper, Thomas W. McCutchan, William A. McMinn, Charles Mendenhall, Ira A. Mendenhall, Francis E. Miller, Truman G. Murden, David E. Noland, Timothy C. O'Connor, Russel R. Ridenour, Willis E. Roe, Perry W. Rowe, Perry Smith, Charles M. Trowbridge, William F. Werner, William A. Wheeler, and Caleb C. Williams.

[144] Asher testimony, Marion County Grand Jury Investigation of Alleged Political Corruption, 1925-26, pp. 213, 246, in D. C. Stephenson Papers, Box 4, Indiana Historical Society Library, Indianapolis.

[145] Stephenson testimony, Alleged Political Corruption, 1926-27, p. 57, Stephenson Papers, Box 7, *ibid.*

ordered free fishing and hunting licenses for war veterans.[146] The law with the most lasting significance established the present State Library and made the Historical Commission a permanent agency to be known as the Indiana Historical Bureau. It originated in the Senate and passed the House without a dissenting vote.[147]

The pall of religious bigotry and racial prejudice fostered by the Klan hung over the Indiana General Assembly for years. Harold R. Donnell was first elected to the House in 1926. He remembered going to a Klan meeting in the early 1920s. "I got so excited that I didn't know what in the world to do," Donnell recalled; but his father told him not to join so he didn't. Jennings County had the largest Klan membership per population in Indiana, according to Donnell. He was not surprised, therefore, by a cross burning in front of his house when he did not join the North Vernon Klavern.[148] Charles F. Fleming (Senate, 1943-1947) was an impressionable Roman Catholic teenager in 1925. He remembered how "the Junior Ku Klux Klan" came into Jasonville High School during a convocation and presented a Bible and American flag.[149] Charles T. Miser, who served at nine sessions between 1941 and 1957, graduated from St. Joe High School in DeKalb County in 1923. During his senior year the Klan met in a barn outside of town. He was impressed by the pageantry and oratory—"They were a pretty high class people"—but his father was not a member and Miser claimed he was too young to join.[150]

Miser was far from alone in remembering Klansmen as "high class people." Richard L. Roudebush never served in the General Assembly but he did serve five terms in the United States Congress beginning in 1961. He remembered the Klan as "very active" in Noblesville. It had large parades, "practically all of your elected officials were members of the Ku Klux Klan," and "the top people" were members.[151] Richard Hoyt Moore, Sr., a senator from Indianapolis between 1943 and 1953, said the Klan "had quite a following" in southern Marion County. "A lot of very substantial individuals . . . belonged to it." Moore was not asked if he joined, but he did belong to the Horse Thief Detective Association.[152] Bert B. Mayhill (House, 1935-1943) published a newspaper at Delphi during the 1920s and remembered Klansmen as somewhat less than good people. According to Mayhill's son, a history professor at Purdue University, his father was "threatened and pressured" to join the Klan. "They told him he would lose all his subscriptions if he didn't join . . . ." Mayhill never joined, and he also refused to fire a Catholic woman who worked for him. Although his subscription list fell tem-

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[146] Niblack, *Life and Times of a Hoosier Judge*, 234.

[147] *Senate Journal*, 1925, pp. 177, 273, 361, 402-3, 754, 764, 847; *House Journal*, 1925, pp. 305, 324, 410, 513, 683-84, 731, 862; *Laws*, 1925, pp. 190-202.

[148] Donnell oral history interview, 2nd ms., 65-69, quotation, 65, Indiana Division, ISL.

[149] Fleming oral history interview, 1st ms., 4, *ibid.*

[150] Miser oral history interview, 1st ms., 17-19, quotation, 17, *ibid.*

[151] Roudebush oral history interview, 1st ms., 28-30, quotations, 29, *ibid.*

[152] Moore oral history interview, 37-44, quotations, 44, *ibid.*

porarily, Mayhill survived and went on to distinguish himself as an Indiana legislator.[153]

Grand Dragon D. C. Stephenson, who boasted during the 74th General Assembly that "I am the law in Indiana," was sentenced to life imprisonment in November, 1925. Soon, bit by bit, an astounding tale of political corruption, bribery, threats, and violence unfolded from Stephenson's cell in Michigan City. While "the law in Indiana" talked, the Ku Klux Klan began to decline, almost as suddenly as it had risen to prominence. Its hour in the Indiana legislature was up. There had been much patriotic bombast amidst dire warnings about Papist plots, miscegenation, and international Jewry, but little of permanent value was in the statute books because of the Klan session.

After the Grand Dragon fell, public opinion hardened against the hypocrisy and corruption of the era. Hooded demagogues who formerly whipped thousands into frenzy with overblown oratory became objects of contempt and derision. On July 4, 1923, Imperial Wizard Evans and Grand Dragon Stephenson spoke to well over 100,000 people at a rally in Kokomo. By contrast, on July 4, 1929, Evans attracted not more than 1,800 people at a similar rally in the same town.[154] By 1926 candidates for the Indiana legislature who acknowledged Klannishness were less numerous than in 1924. In 1927 no identifiable Klan agenda appeared during the session. On January 4, 1928, Attorney General Arthur L. Gilliom filed suit in Marion County Circuit Court to lift the Klan's state charter.[155] Later that year avowed Klansmen were even less evident as legislative candidates than in 1926, despite the fact that a Roman Catholic ran for president of the United States.

As Indiana politics returned to a more normal state, the Republican party discovered that it had lost the black vote. The party of Lincoln had monopolized this vote in the state since the Civil War. In 1924 a majority of blacks in Indiana voted Democratic for the first time in history. This was twelve years before the black vote nationally switched to the Democratic party. The defection of black voters from the Republican party occurred in Indiana first because of the Republican Klan connection.[156]

The Klan's impact on black Hoosiers was summarized by Henry J. Richardson, Jr., one of two black Democrats elected to the General Assembly in the Democratic landslide of 1932. Richardson was born in Huntsville, Alabama, in 1902, and migrated to Indianapolis about 1919. He worked as a waiter while attending Shortridge High School, from which he graduated in 1921. He earned his LL.B. degree from the Indiana Law School in Indianapolis in 1928. Richardson remembered the 1920s as the time when the Ku Klux Klan "ran everything."

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[153] Mayhill file, Centennial History, ISL.

[154] Davis, "The Ku Klux Klan in Indiana," 114.

[155] *Ibid.*, 112.

[156] William W. Giffin, "The Political Realignment of Black Voters in Indianapolis, 1924," *Indiana Magazine of History*, 79 (1983), 133-66.

He said the lack of civil rights at that time meant "Indiana was not human, Christian or civilized."[157]

[157] Richardson file, Centennial History, ISL; Indianapolis *Star*, June 30, 1980. Richardson served two terms (1933, 1935). He devoted himself after legislative service to improving civil rights for blacks both nationally and in the state. Richardson was director of the civil liberties division of the National Bar Association from 1938 to 1944, and served on the state Public Welfare Board and state Real Estate Commission. He was also active in the National Association for the Advancement of Colored People, the Urban League, and the Indiana Civil Liberties Union.

Chapter 10
The Constitutional and Political Context

Although the General Assembly wrestled with the archaic provisions of the 1851 Constitution at every session, the years from 1890 to 1930 marked an era of constitutional impasse for the state of Indiana. The legislature considered essential amendments each biennium, usually for naught because of the cumbersome process of amendment spelled out in the document. Amendments had to pass at two consecutive sessions and then be approved by the people. Frequently, what one session passed the next disallowed or changed. On those occasions where consecutive general assemblies concurred in amendments, it was then up to the people to accept or reject the changes by majority vote. In almost every instance, more voters approved than rejected proposed amendments. But the state Supreme Court held, in a series of rulings, that amendments were not adopted unless the ayes constituted a majority of all votes cast in the particular election. Proposed amendments almost always received substantially fewer affirmative votes than candidates running for statewide office. According to the court, this meant the amendments were neither approved nor rejected, but still pending. The 1851 Constitution barred further amendatory action by the General Assembly while amendments were pending. In effect, between the letter of the Constitution and judicial interpretations of what it meant, amendment of the state's fundamental law was a practical impossibility.

Some politicians, weary of the difficulty of amendment, wanted to replace the 1851 document with a new one. Governor Claude Matthews spoke against wholesale revision of the Constitution in his 1893 inaugural address. "No State has a better one" than Indiana, said Matthews. "The experience of over forty years has proven its beneficient character and wisdom . . . ."[1] Proposals to call a constitutional convention nonetheless were made regularly. In 1895 the House advanced one such resolution to engrossment before it failed. At the same session the Senate resolved that "Indiana has in all her great commercial interests outgrown our Constitution . . . ." The resolution concluded that only a new document could remedy the situation.[2] At several sessions the legislature empowered the people to sanction a constitutional convention. Once, in 1911, it passed an entirely new fundamental law. Each time the legislature acted, either the people at the polls or the courts through judicial review overturned the legislative will. The Indianapolis *Times* summarized the need for constitutional revision succinctly in 1929: "A government that operated for a stage coach has its troubles in an airplane age."[3] Through no fault of its legislature, Indiana endured from 1890 to 1930 with a "stage coach" era Constitution that proved almost impossible to change.

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[1] *House Journal*, 1893, p. 54.

[2] *Ibid.*, 1895, pp. 718-19, 1185; *Senate Journal*, 1895, p. 1105.

[3] Indianapolis *Times*, January 19, 1929.

The General Assembly began a decade of deliberation over constitutional issues in 1891 when it considered nine amendments pending from the 1889 session. Four dealt with issues of recurring concern throughout the era. One would change the number of state Supreme Court justices to "not less than five nor more than nine Judges"; another would admit blacks to the state militia; a third authorized the General Assembly to prescribe qualifications for the practice of law; and a fourth removed limitations on the length of legislative sessions. All pending amendments were rejected in 1891, but lawmakers adopted four new ones, including one that extended the length of regular sessions to 100 days.[4] These new amendments were rejected in turn at the 1893 session.[5] A large number of constitutional measures were considered in 1895 when there were no amendments pending, but only two were adopted. One of these increased the membership of the Supreme Court; the other permitted the use of voting machines. Both, however, were rejected by the 1897 session.[6] In 1897 the legislature also adopted the first two amendments of the era to be submitted to the people. One would have increased the number of Supreme Court justices to eleven; the other stated that "The General Assembly shall by law prescribe what qualifications shall be necessary for admission to practice law in all courts of justice." These were placed on the ballot at the November, 1900, general election after the 1899 session repassed them.[7]

More than 650,000 votes were cast for governor in Indiana on November 6, 1900. A majority of these votes was 327,983 and the largest number of affirmative votes cast for either of the constitutional amendments fell 13,272 short of this majority. Over 200,000 more votes were cast in favor of both amendments than against them, however, and on the assumption that the lawyers' amendment had been adopted, the Marion County Circuit Court established rules to ascertain the fitness of candidates for admission to the bar. But the state Supreme Court, in the case of *In re Denny* (November, 1900), ruled that the proposed amendment had failed of adoption because it had not been ratified by a majority of votes cast at the election.[8] The lawyers' amendment was readopted at every session between 1901 and 1909 and resubmitted to the people in the general elections of 1906 and 1910. Each time more voters approved than disapproved but the amendment failed under the *Denny* rule to receive a constitutional majority of all votes cast in the election. During these same years, because of the pendency of the lawyers' amendment, repeated efforts to secure amendments on other issues failed. In addition, attempts to call a constitutional convention

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[4] *House Journal*, 1891, pp. 1461-72, 1473-76; *Senate Journal*, 1891, pp. 1250-53. For a detailed examination of constitutional issues at the session, see Charles Kettleborough, *Constitution Making in Indiana* (3 vols., Indianapolis, 1916, 1930), 2:278-92.

[5] Kettleborough, *Constitution Making in Indiana*, 2:292-303.

[6] *Ibid.*, 2:303-17.

[7] *Ibid.*, 2:317-28; *Senate Journal*, 1897, pp. 735, 924-25, 1027-28; *ibid.*, 1899, pp. 342, 595; *House Journal*, 1897, pp. 1495-96, 1571-72; *ibid.*, 1899, pp. 1187-89, 1346-47; *Laws*, 1899, pp. 560-61.

[8] Kettleborough, *Constitution Making in Indiana*, 2:337-50.

in 1901, 1903, and 1907 likewise failed. By 1911 it appeared the Indiana Constitution could not be changed because proposed amendments would never engender enough popular support to secure a constitutional majority in a general election and efforts to call a new convention could not pass the General Assembly.[9]

The Marshall Constitution of 1911 and Its Aftermath

The 1911 session of the legislature seemed a particularly propitious time to Democrats to cut the Gordian knot of constitutional deadlock. In 1910 the voters gave their party majorities in both houses for the first time in eighteen years. Just as important, the first Democrat to be elected governor since 1892 was midway through his term. Although neither Governor Thomas Riley Marshall nor any candidate for the legislature had made constitutional reform an issue in the 1910 election campaign, Marshall and a small coterie of advisors planned to change the state's fundamental law. According to Marshall's biographer, the governor relied largely on one man, Jacob Piatt Dunn, to draft an entirely new constitution. Dunn, a propagandist for Democratic causes as well as a widely-read popular historian, devised a scheme to bypass both the amendatory process and rulings by the state Supreme Court on that process in order to accomplish the change. Very few people knew of the plan because the work was "done quietly in the Governor's office." Marshall had Dunn's draft introduced into the General Assembly as an act submitting to the voters of the state a new constitution.[10]

There was no hint of constitutional revision before Governor Marshall delivered his biennial message on January 5. On that occasion, however, the governor spoke of "certain provisions" in the 1851 Constitution "which do not meet present conditions." He was especially concerned about the limitation of legislative sessions to sixty-one days, the lack of uniform tenure of office for county and state officials, and the complicated mode of amendment. Marshall said it was "inadvisable" to elaborate further at that time. He ended by noting tellingly that "it is not improbable that I shall again address you" on constitutional questions.[11] On February 14 the Democratic joint caucus approved the plan drafted in the governor's office and the next day Senator Evan B. Stotsenburg of New Albany introduced the bill embodying Marshall's constitution. Stotsenburg's bill became law, to be submitted to the people for ratification at the 1912 general election.[12]

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[9] The attempts to pass the lawyers' amendment can be followed in *House Journal*, 1901, p. 1780; *Senate Journal*, 1901, pp. 381, 712-13; *House Journal*, 1903, pp. 738-39; *ibid.*, 1905, pp. 1453-54; *Senate Journal*, 1903, pp. 1328-29; *ibid.*, 1905, pp. 1658-59; *ibid.*, 1907, pp. 2417-19; *House Journal*, 1907, pp. 2390-92; *Laws*, 1909, pp. 501-2. The maneuvering over constitutional amendments during these years is covered in Kettleborough, *Constitution Making in Indiana*, 2:350-83.

[10] Charles M. Thomas, *Thomas Riley Marshall: Hoosier Statesman* (Oxford, Ohio, 1939), 88; Thomas Riley Marshall, *Recollections of Thomas R. Marshall, Vice-President and Hoosier Philosopher: A Hoosier Salad* (Indianapolis, 1925), 210; Jacob Piatt Dunn, *Indiana and Indianans* (5 vols., Chicago and New York, 1919), 2:770-76.

[11] *House Journal*, 1911, pp. 18-20.

[12] *Laws*, 1911, pp. 205-43.

Senators William R. Wood of Lafayette and James O. Sexson of Owen County articulated the Republican response. Wood, a fourteen-year veteran of the legislature, said "the question of a new constitution is not the proper subject for a party caucus." Constitutions, Wood concluded, could only be made by representatives of the people chosen for that purpose at a constitutional convention and the General Assembly of 1911 was not chosen to frame a new fundamental law.[13] Sexson, who served only half of his term before ill health forced him to move to Arizona, submitted a resolution on February 16 to make Governor Marshall a committee of one to declare the new constitution in effect without an election. Sexson would also have empowered the governor to "revise the Lord's prayer, amend the Declaration of Independence, repeal the Mosaic Law, bring the Thirty-nine Articles of Faith down to date, abridge the Sermon on the Mount, and do . . . other things . . . ." Sexson's resolution was declared out of order.[14]

The proposed constitution sought to remedy some of the weaknesses which had plagued the lawmaking process since 1890 while also implementing some standard Progressive panaceas. Major changes included enlarging the state House of Representatives to 130 members, with each county having at least one representative. Beginning in 1913 regular biennial sessions could not exceed 100 days. The governor could call a special session anytime for a specific purpose or purposes, but such sessions could not exceed thirty days and could only act on the purposes specified by the governor. A three-fifths vote of both houses would be necessary to override a veto; state and county officials would serve terms of four years and could not succeed themselves; and the state Supreme Court would be increased from five to eleven justices. Finally, in line with the progressive mood of the era, on petition of 25 per cent of the electors of the state at the most recent election, the General Assembly might provide for initiative, referendum, and recall of all state and local officials except judges.[15]

The attempt to legislate a new constitution proved to be the most unique and controversial action by the General Assembly between 1890 and 1930.[16] No other issue of the era engendered as many partisan protests as Republican denouncements of this Democratic "usurpation." These protests were more widely broadcast in the state press than protests over any other issue during the era. They cover nearly thirty pages in the legislative *Journals*. The general theme was that the proposal was partisan, a one-man product, unconstitutional, railroaded

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[13] Indianapolis *News*, February 14, 1911.

[14] Indianapolis *Star*, February 17, 1911.

[15] Jacob Piatt Dunn, *The Proposed Constitution of Indiana* (Indianapolis, 1911), gives a line by line comparison of the 1851 Constitution and the Marshall proposal.

[16] Except for an attempt by the Connecticut legislature in 1905 which voters rejected, no other state legislature had tried to alter its fundamental law in such a fashion since the eighteenth century. For a discussion of legislative attempts to draw constitutions, see Robert Luce, *Legislative Principles: The History and Theory of Lawmaking by Representative Government* (Boston and New York, 1930), 140-43. "Apart from the strictly legal phases of the question," Luce concluded (p. 140), "it would on the whole be fortunate if the courts discouraged Legislatures from themselves preparing revisions of Constitutions."

by the majority caucus, a violation of popular sovereignty, and revolutionary. The method of amendment was "a mere makeshift and a subterfuge," while the document itself was "the product of one mind, conceived in partizan bias and prejudice," "irregular, illegal, and subversive," and "revolting."[17]

The newspapers in the capital city were surprisingly restrained in their editorial comment. The Indianapolis *Sun*, successor of the Democratic *State Sentinel*, proclaimed "CONSTITUTION OF INDIANA IS TO BE PROGRESSIVE ONE" over a favorable story and noted that the opponents were "two-by-four, smooth-bore reactionary politicians . . . ." As seen by the *Sun*, the important changes included the possibility of increasing the pay of members of the General Assembly to $10 per day and the possibility that the General Assembly would meet in a dual session. During the first forty-five days bills and amendments would be introduced. Then there would be a sixty day recess, after which the lawmakers would reconvene for fifteen days to pass bills. The Republican Indianapolis *News* was also generally favorable because of the need for constitutional reform. This newspaper noted, however, that a new constitution "was not an issue in the recent campaign" and "the legislature was not elected to do this thing, or with the remotest idea that it was to do it." Nonetheless, concluded the *News*, if there were a fair and exhaustive discussion of all the questions involved, "much of the objection will be removed." Only the Indianapolis *Star* was unswerving in its opposition: it was the first time, said the *Star*, that a state constitution "has sprung full panoplied from the brain of a Governor, handed down in a speech from the throne to a party caucus . . . ."[18]

Democrats released a barrage of publicity favoring the constitution. Governor Marshall led off on February 14 with a long discourse published on page one by the Indianapolis *News*. Marshall traced the state's constitutional history since 1816 to show the need for his proposed reform.[19] Jacob Piatt Dunn spearheaded the effort to gain popular acceptance after the session ended. Dunn's analysis appeared originally in Democratic newspapers and subsequently as a pamphlet. In his conclusion, Dunn addressed those who objected that the legislative method was improper for providing a new basic law: "If you really believe that 'it is [a] good meal, but it came through the wrong hopper,' the sensible course is to take the meal and save your condemnation for the hopper."[20] Dunn reworked his argument slightly in 1912, added documentation, and published it in the *American Political Science Review*. The most academic defense was offered by historian James A. Woodburn of Indiana University who spoke widely to the question "Why Indiana Needs a New Constitution." Woodburn's effort was published as a pamphlet by the Woman's Franchise League of Indiana although

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[17] *House Journal*, 1911, pp. 1753-72; *Senate Journal*, 1911, pp. 1477, 1479-85.

[18] Indianapolis *Sun*, February 14, 16, 1911; Indianapolis *News*, February 14, 1911; Indianapolis *Star*, February 15, 1911.

[19] Indianapolis *News*, February 14, 1911. Marshall's article was reprinted by Democratic newspapers statewide.

[20] Dunn, *The Proposed Constitution of Indiana*, 47.

Woodburn dealt only in passing with the question of women's suffrage.[21]

On July 5, 1912, the Indiana Supreme Court declared it was unconstitutional for the legislature to enact a constitution. The court enjoined a vote on the issue, thus removing the question from the general election. In 1913 the United States Supreme Court dismissed Marshall's appeal of the Indiana court's ruling, thus ending the attempt to create a constitution by legislative fiat.[22] But the question of mass constitutional reform remained because Democrats swept the state elections in 1912. All of the state senators elected that year were Democrats, as were ninety-five of the 100 members of the House (the largest partisan majority in the history of that body). Democrat Samuel M. Ralston was elected governor while his predecessor advanced to the office of vice-president of the United States. According to Jacob Piatt Dunn, Thomas Riley Marshall became Woodrow Wilson's running mate in 1912 because Marshall's name "was advertised from one end of the nation to the other" in 1911 by the proposed constitution.[23]

Democrats, stymied by the courts in the attempt to legislate a new constitution, used their majorities in 1913 to pass twenty-two separate amendments. Evan Stotsenburg sponsored the measures, and the so-called "Stotsenburg amendments" embodied the essentials of the Marshall constitution. At the same time, the legislature passed a bill submitting to the voters in 1914 the question of holding a constitutional convention.[24] At the 1914 election, the people voted 235,140 to 338,947 against a convention. The 1915 session, with reduced Democratic majorities, failed to repass the proposed amendments. Thus ended the most spectacular attempt of the era to change Indiana's Constitution.[25]

Efforts either to amend the Constitution or to call a convention continued during the years of Republican domination from 1916 to 1930, but they rarely succeeded. The General Assembly of 1917 enacted a law calling a convention without first submitting the question to a vote of the people, but the state Supreme Court declared the act invalid.[26] The General Assembly of 1919 adopted sixteen amendments and the session of 1921 readopted thirteen of them. Only one—making every citizen of twenty-one years and upwards eligible to vote in the township or precinct where he or she resided—was approved by the voters. Four of the rejected amendments were readopted by the general assemblies of 1923 and 1925, but repudiated by the voters at the general election of 1926. The general assemblies of 1927 and 1929 took the final action of the era by adopting amendments to strike out Article 7, section 21, concerning the qual-

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[21] Jacob Piatt Dunn, "The Proposed Legislative Constitution of Indiana," American Political Science Association, *Proceedings*, 1912, in *American Political Science Review*, 6 (1912), Supplement, 43-52; James Albert Woodburn, *Why Indiana Needs a New Constitution* (Indianapolis, 1913).

[22] Kettleborough, *Constitution Making in Indiana*, 2:453-534.

[23] Dunn, *Indiana and Indianans*, 2:776.

[24] For the amendments, *Senate Journal*, 1913, pp. 857-58, 1113-23, 1959, and *House Journal*, 1913, pp. 2070-82, 2142; for the convention call, *ibid.*, 1896-97, and *Senate Journal*, 1913, pp. 1139-46. See also Kettleborough, *Constitution Making in Indiana*, 2:539-82.

[25] Dunn, *Indiana and Indianans*, 2:776; *House Journal*, 1915, p. 1551.

[26] *Bennett* v. *Jackson*, 186 Ind. 533.

ifications of persons to practice law and to provide for the levy and collection of an income tax.[27] These awaited action by the voters at the 1930 general election.

There were nearly 400 constitutional changes considered by the legislature between 1853 and 1930. Many of these were on identical subjects such as increasing the number of Supreme Court justices or establishing qualifications to practice law. Only twenty-five were submitted to the people, who subsequently approved nine of the changes, seven at the special election of 1881. The other sixteen were either rejected outright or failed because the courts held that they had not received a constitutional majority.[28] The era ended with no significant constitutional change having occurred despite forty years of effort by the General Assembly.

The Election of United States Senators, 1891 to 1911

The naming of United States senators between 1891 and 1911 proved less contentious and acrimonious than at any time during the ninety-six years that the General Assembly conducted the elections. With Democrats holding solid majorities in both houses at the 1891 and 1893 sessions, incumbents Daniel W. Voorhees and David Turpie were reelected without caucus opposition. Voorhees defeated Republican Governor Alvin P. Hovey 109 to 40 in 1891; Turpie defeated Indianapolis attorney Charles W. Fairbanks 98 to 50 in 1893.[29] After losing to Turpie, Fairbanks bided his time until Republicans returned to power. When the 1894 elections produced majorities in both houses for his party, he wrote a friend "Unless we make serious mistakes we shall enjoy the fruits of the victory for years to come." In 1895 Republicans began twelve years of domination in the legislature and the election of Fairbanks over Voorhees at the 1897 session proved one of the important fruits of Republican ascendancy.[30]

The first spirited contest of the era occurred at the 1899 session when J. Frank Hanly vied with Albert J. Beveridge before the Republican caucus. Hanly, a former state senator and United States congressman, entered the caucus with a slight lead over Beveridge, an articulate and young party worker who had never held public office. The caucus met in the hall of the House of Representatives at 8 p.m. on January 10 while throughout the state "persons waited at telegraph or telephone stations for news of the result." Eighty-nine Republicans attended, including Representative Orlando A. Somers of Kokomo who arrived "on the evening train to attend the caucus, although he was suffering from the grip." Forty-five votes were needed and it took until the twelfth ballot shortly after

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[27] Kettleborough, *Constitution Making in Indiana*, 3:*passim*.

[28] Indianapolis *Star*, January 19, 1925.

[29] *House Journal*, 1891, pp. 249-50; *Senate Journal*, 1893, pp. 193-94.

[30] Fairbanks to Charles F. Griffin, November 10, 1894, as cited in James H. Madison, "Charles Warren Fairbanks and Indiana Republicanism," in Ralph D. Gray (ed.), *Gentlemen from Indiana: National Party Candidates, 1836-1940* (Indianapolis, 1977), 178; *House Journal*, 1897, p. 235. Fairbanks defeated Voorhees 85 to 58, with six votes scattered.

midnight before Beveridge won with forty-nine votes. About 12:30 a.m. the winner was introduced, "a boyish-looking figure as he stood at the Speaker's desk" waiting for the applause to stop. Beveridge thanked the caucus, stated that "The Senate of the United States is the supreme legislative body of the world," and promised to do his best in Washington. At 1 a.m. Beveridge was taken to the governor's office and then he was "escorted to the political clubs about town." The celebration did not break up until after 3 a.m. On January 17 Beveridge defeated Turpie 87 to 56.[31]

Representative Booth Tarkington nominated Fairbanks for a second term in 1903. The speech for Fairbanks was the highlight of public life for the novelist who began and ended his political career at the 63rd General Assembly. Fairbanks then defeated Democrat Benjamin F. Shively 101 to 44 to continue as Indiana's senior senator.[32] In 1905 Republicans had to select two candidates after Fairbanks was elected vice-president of the United States as Theodore Roosevelt's running mate in 1904. The party caucus unanimously endorsed Beveridge for reelection and chose a lackluster congressman, James A. Hemenway, to complete Fairbanks' term. These two defeated Democrats Benjamin Shively and John W. Kern 115 to 31 on a straight party line vote.[33]

Shively and Kern were the major contestants in the most bitter election of a United States senator by legislators during the era. It occurred in 1909 when the Democrats were a minority by four in the Senate but had a majority of twenty in the House, and thus a safe majority on joint ballot. The Democratic caucus met in the House on January 13, and fought through the night until the twentieth and deciding ballot was taken at 2 a.m. Party boss Thomas Taggart desired the senatorship himself, but five others were determined to get it for themselves. During the pre-caucus maneuvering, several deals were struck between the supporters of Shively, Kern, and five lesser candidates. Kern was the popular favorite, but Shively was able to collect more IOUs among caucus participants. He won finally with 42 votes, one more than needed. The balloting had been secret, and when the roll was called during the following week by various constituencies over the state, it appeared Kern had a majority of eight according to the professed votes of the legislators. The subsequent charges of vote buying, double-dealing, and the appearance that eight members lied about how they voted helped convince Democrats to support the direct election of United States senators. Immediately after Shively defeated Hemenway 83 to 67 for the Senate seat, both houses passed resolutions recommending passage of the Seventeenth Amendment to the United States Constitution.[34]

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[31] Indianapolis *News*, January 11, 1899; *House Journal*, 1899, p. 252.

[32] James L. Woodress, "Booth Tarkington's Political Career," *American Literature*, 26 (1954), 216; *House Journal*, 1903, p. 187.

[33] Indianapolis *News*, January 12, 1905; *House Journal*, 1905, pp. 231-35.

[34] Indianapolis *Star*, January 12, 1909; Indianapolis *News*, January 14, 15, 16, 1909; *Senate Journal*, 1909, pp. 164-65, 196-97, 371; *House Journal*, 1909, pp. 149-50, 1227-28; Thomas, *Thomas Riley Marshall*, 60-64.

Popular reaction against the method whereby Shively was selected in 1909 led Governor Marshall to propose in 1910 that the delegates to the Democratic state convention formally express their choice for one Democrat as senator to succeed Beveridge. If the Democrats then won a majority in the legislature they would be committed to name the man as senator so that no secret caucus would make the selection. Although Senator Shively and Taggart opposed the so-called "Governor's plan," the state Democratic convention approved it and then endorsed Kern for the seat. At the subsequent session Kern won unanimous endorsement in the party caucus and defeated Beveridge 90 to 60 for the seat. Since the Seventeenth Amendment was ratified before Indiana's next United States Senate election, Kern thereby became the last senator elected by the Indiana General Assembly.[35]

The General Assembly and the Governors

The legislature met in twenty regular sessions and four special sessions between 1891 and 1929. Democrats controlled both houses and the executive office only during the sessions of 1893, 1911, 1913, and 1915. At one session (1891), Democrats controlled both houses but Republican Alvin P. Hovey sat as governor. At another session (1909), Democrat Thomas R. Marshall was governor while his party controlled the House of Representatives and Republicans controlled the Senate. Republicans held majorities in both houses and the governorship at each of the other fourteen regular sessions and during the four special sessions. (See Appendix A, Table 3.) Thus, party harmony reigned at most sessions and conflict between the legislative and executive branches was minimal. The one exception occurred in 1893 when the most bitter dispute of the era between the legislature and an executive was provoked by an intramural fight among Democrats over the appointive powers of the governor.

The fight over who should make administrative appointments began in 1889 when Democrats controlled the General Assembly during the administration of Governor Hovey. The majority passed a bill appointing a trustee to the state School for the Blind. Hovey claimed the law was unconstitutional in that the state Constitution vested executive powers in the governor and the power of appointment to administrative offices was an executive function. Advocates of legislative ascendancy in appointments argued the Constitution favored the legislature in two ways. One, the document clearly implied that there were offices the appointment to which was vested in the General Assembly and, two, it stipulated other offices were to be filled in the manner prescribed by law. The state Supreme Court found for the legislature, stating "The principle which the long continued practice has established is, that the General Assembly has the power to appoint the governing officers of all benevolent institutions, or, at its option, authorize their appointment by some other department of State government."[36] In 1890 Democrats elected a secretary of state and state auditor

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[35] *House Journal*, 1911, pp. 139-40; Thomas, *Thomas Riley Marshall*, 64-67.

[36] *Hovey, Governor* v. *The State, ex rel. Riley*, 119 Ind. 386.

plus better than two-thirds majorities to both houses. At the 1891 session, with a favorable court decision in hand, Democrats used their majorities to restrict further Hovey's power to appoint members of executive agencies. They passed a series of bills providing that the governor, secretary of state, and auditor would share authority to appoint members of such agencies as the Board of Health, the Board of Agriculture, and newly created offices of inspector of mines, natural gas supervisor, and inspector of oils. The board of trustees of the Eastern Indiana Hospital for the Insane at Richmond was abolished and the General Assembly was authorized to elect a new board. Hovey vetoed all of these bills except the bill restructuring the Board of Agriculture. This became law without Hovey's signature while the others were repassed by the legislature over the governor's veto.[37]

In 1892 Democrat Claude Matthews was elected governor and the party retained substantial majorities in both houses. In this situation, Democratic legislators had second thoughts regarding the governor's power to appoint, especially since the new governor wanted the power restored. Dropping plans for caucus nominations, they agreed early in the 1893 session to introduce bills restoring the appointive power to the governor. Before any bill became law, however, a rift developed between Senate Democrats who supported Matthews and some House Democrats who did not. A caucus of House Democrats voted 47 to 2 on January 23 to kill a measure restoring the governor's power. On January 30 the Senate passed a similar bill giving Matthews power to make most administrative appointments.[38] House Democrats then split between "Matthews Democrats" who favored restoring the governor's power and "caucus stickers" who were opposed.

Representative Francis T. Hord of Indianapolis spoke for the latter when he said "We will vote as we please from this time on." A majority of House Democrats further resolved not to participate in any caucus on any subject if the appointive power bill passed with the aid of Republicans. House Republicans, sensing a fatal rift in their opponents' ranks, agreed in caucus to vote for the Senate bill and not to make any deals with the anti-Matthews Democrats.[39]

The Senate bill passed the House on February 22 by a 63 to 30 margin, with thirty Democrats voting no and thirty-four Republicans voting yes. When the total was announced, Representative Frank D. Ader (Putnam County) attempted to read William A. Cullop of Vincennes, leader of the pro-Matthews Democrats in the House, out of the party. "He [Cullop] has lost our respect," said Ader. "I do not want to affiliate with him longer."[40] The session ended

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[37] For the Board of Health bill, *Senate Journal*, 1891, pp. 50, 198, 260, 275-76, 515, 572-73, 598-600; Board of Agriculture bill, *ibid.*, 84, 460-62, 891, 997; mine inspector bill, *ibid.*, 149, 246, 839, 1005-6, 1039; hospital trustees bill, *ibid.*, 1119-20, 1161-62, 1185; natural gas supervisor, *ibid.*, 1242-44; oil inspector, *ibid.*, 828-31.

[38] Indianapolis *News*, January 13, 16, 20, 23, 1893; *Senate Journal*, 1893, p. 320.

[39] Indianapolis *News*, February 9, 11, 17, 1893.

[40] *Ibid.*, February 21, 22, 1893; *House Journal*, 1893, pp. 830-32, 860-61.

with the governor's appointive power restored and half of the majority Democrats in the House not speaking to their party colleagues.

The question of whether the General Assembly or the governor should control administrative appointments led to physical violence and another court test in 1895. During the session that year the legislature nearly returned to the riotous conditions so commonplace during the previous era. Republicans controlled both houses and supported several bills to overturn the 1893 administrative appointments act.[41] The bill that provoked violence aimed to oust the custodian of the State House and his janitorial staff. Governor Matthews planned to hold this bill until the last minute so it could not be repassed over his veto. Matthews admitted he expected a contest over the veto, "but I thought that it would be of a friendly nature." The governor miscalculated because, as the Indianapolis *News* noted: "Democrats and Republicans fought like beasts of the forest" when the governor's secretary returned to the House with the bill at 11:45 p.m. on closing night. Republicans intercepted the secretary in the lobby and locked the doors of the chamber. Democrats forced the doors open at 11:53 p.m., however, and the secretary "made a lunge forward" with the bill and veto message. A riot ensued, with one man in the center of the mob wielding an umbrella "which he used freely on the heads of members." Speaker Justus C. Adams declared the House adjourned before he received the bill. The fighting continued for another thirty minutes. In the meantime, at 12:02 a.m., the Senate sang "Auld Lang Syne," adjourned *sine die*, and departed.[42]

The court case originated when the legislature created a Board of State Officers to fill prison appointments. Matthews vetoed the bill and it was repassed. The governor at once brought suit to test the question of his appointive power. The state Supreme Court again found for the legislature with a decision that stated the General Assembly had explicit power to make administrative appointments under both the 1816 and 1851 Constitutions, a power exercised consistently since the first session.[43] The question of who should control administrative appointments was the only issue that caused a major confrontation with the executive branch of government. The matter was settled for the remainder of the era in 1897 when Republican majorities passed a series of bills granting Governor James A. Mount wide latitude to make appointments.[44]

Republican-controlled legislatures later upheld vetoes by Republican governors on less controversial matters. In 1903 Governor Winfield T. Durbin successfully vetoed a bill to legalize a marriage on grounds there was no need for the legislation; he also vetoed an inheritance tax bill on grounds it was improperly enrolled. In 1905 Governor J. Frank Hanly vetoed a "spite fence" bill because

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[41] Indianapolis *News*, February 14, 16, 19, 26, 1895.

[42] Indianapolis *News*, March 12, 1895; *Laws*, 1895, pp. 359-62.

[43] *Laws*, 1895, pp. 160-63; Indianapolis *News*, March 15, 16, 21, 23, 1895; *French* v. *The State, ex rel. Harley*, 141 Ind. 618.

[44] Included were bills that gave the governor authority to appoint boards of control for state benevolent and penal institutions. *House Journal*, 1897, pp. 1377-79, 1553-54; *Senate Journal*, 1897, pp. 962-63, 1047.

he held it was vindictive legislation; in 1917 Governor James P. Goodrich stopped a bill that allowed motion pictures to be shown on Sundays. Democrat Thomas R. Marshall was the only governor during the era to have a veto fail because of his own party. In 1909 Marshall vetoed a bill legalizing Sunday baseball only to have a second bill sponsored by a House Democrat pass handily.[45]

The restrictions collectively bestowed on the office of governor by the state Constitution and the fact that the document remained basically unchanged were major reasons for the absence of prolonged legislative-executive conflict. When coupled with the absence of a major crisis such as the Civil War or the Great Depression, the governorship was left an essentially weak office. All administrations remained lame duck because no governor could succeed himself. While in office, he was financially dependent upon the legislature for appropriations, lacking even a line-item veto in this vital area. When a governor did exercise his veto, a simple majority in both houses could override. The biennial elections of the treasurer, auditor, secretary of state, and attorney general weakened the office further because party control of these posts could change at midterm. Favorable court decisions upholding legislative ascendancy in administrative appointments also weakened the executive's hand. Taken together, the constitutional restrictions on executive power and interpretations by the judiciary ensured that the thirteen governors between 1890 and 1930 were subordinate to the legislature.

Only five of the thirteen governors had previous legislative experience. Claude Matthews (House, 1877), James A. Mount (Senate, 1889-1891), and J. Frank Hanly (Senate, 1891) each served one term or less. Emmett F. Branch (House, 1903-1907) and Harry G. Leslie (House, 1923-1927) both advanced to the governorship after serving as speaker, Branch in 1907, Leslie in 1925 and 1927. Hanly (1905-1909), Thomas R. Marshall (1909-1913), and Samuel M. Ralston (1913-1917) were the three governors who came closest to exercising powerful leadership independent of the legislature. Each enjoyed large majorities in both houses while they held office, a major factor in their success. Hanly was probably the best public speaker of the thirteen governors. He devoted most of his public life to the cause of temperance, and used the sheer force of his personality to get the county option law enacted at the September, 1908, special session, which he called expressly for that purpose. Hanly's success, however, proved his undoing. The law was extremely unpopular and, according to historian Jan Shipps, "not only led to a resounding Republican defeat in the November elections, but led to the destruction of the [Republican] party for years to come."[46] Marshall became nationally famous due to his legislative constitution of 1911. But his success was thwarted when the state Supreme Court declared the act unconstitutional: "there was never a more flagrant interference . . . with the rights, privileges and duties of the legislative and executive branches of government . . . ,"

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[45] Durbin vetoes, Indianapolis *News*, March 11, 1903; Hanly veto, *Senate Journal*, 1905, pp. 1197-99; Goodrich veto, Indianapolis *Star*, March 10, 1917; Marshall veto, *House Journal*, 1909, pp. 1114-15, 1229, 1337-38.

[46] Jan Shipps, "J. Frank Hanly: Enigmatic Reformer," in Gray (ed.), *Gentlemen from Indiana*, 241.

wrote Marshall in his memoirs.[47] Ralston was the most popular governor of the era, best remembered for his promotion of the statehood centennial celebration in 1916.

All governors worked with a friendly legislature when their party controlled both houses. In most instances this proved harmless as well as harmonious. During the 1920s, however, this partisan tendency to look the other way bordered on legislative compliance with executive criminality. In 1923 Governor Warren T. McCray was forced to resign after his indictment on charges of misusing the United States mail. During his trial McCray admitted using the prestige of his office in a scheme to defraud investors. In 1927 Governor Ed Jackson refused to resign when indicted on a charge of offering McCray a bribe while Jackson was secretary of state in 1923. Only the statute of limitations prevented Jackson's conviction on the charge. The General Assembly stood practically mute during these two scandals. In any other era it would have been inconceivable that lawmakers would remain passive while governors in successive administrations were indicted and tried on criminal charges involving actions in the State House. Yet not a single resolution of censure or call for a legislative investigation of the McCray or Jackson administrations was forthcoming from a General Assembly usually anxious to expose all hints of corruption in the executive branch of government.

Apportionments, 1891 through 1921

Legislative apportionment dominated the first four sessions of the 1890s as successive general assemblies redistricted the state. The Democratic party, having controlled apportionments in the 1880s because it enjoyed substantial majorities at the 1879 and 1885 sessions, passed another act in 1891 intended to continue the party's dominance into the new decade. Instead, the act touched off a decade of judicial intervention in the apportionment process. By 1900 the state Supreme Court had declared four separate apportionment acts unconstitutional. In the process, the court also dictated requirements that apportionment acts must meet if they were to receive judicial approval.

The 1891 act, used to elect the 1893 General Assembly, passed over vigorous Republican protests and a veto by Governor Alvin P. Hovey. (See Appendix B, Maps 33-34.) In his message the governor said the act was worse than the 1885 law ("a very successful gerrymander") and clearly unconstitutional. His protest included a chart showing votes by county to prove the legislation would ensure Democratic perpetuity despite Republican majorities. The 1891 gerrymander would, "if painted on a map, excel in its contortions an old maid's crazy quilt," the governor concluded.[48]

The state Supreme Court declared the 1879 and 1891 apportionment acts unconstitutional on December 17, 1892, in *Parker et al.* v. *The State, ex rel.*

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[47] Marshall, *Recollections*, 210.

[48] *Laws*, 1891, pp. 119-21; veto message, *House Journal*, 1891, pp. 1323-27; for legislative action, *ibid.*, pp. 1018-26, 1327-28, and *Senate Journal*, 1891, pp. 898-901, 1007-11, 1104-10.

Powell. The court thereby established its jurisdiction in apportionment cases and established requirements that must be met when the General Assembly redistricted. According to the Parker decision, the state Constitution intended to secure to each voter, as nearly as possible, an equal voice with every other voter in the state in the selection of senators and representatives. At the same time, said the court, the Constitution intended to preserve the integrity of the counties. The decision formulated five rules for a constitutional apportionment: (1) When exact equality cannot be attained, where the integrity of the counties is preserved, approximation becomes a rule as binding upon the General Assembly as any other rule fixed by the Constitution; (2) Approximation to equality forbids the formation of districts containing large unrepresented fractions when it is possible to avoid it, while other districts are largely over-represented; (3) When a county with less voting population than would entitle it to one senator has been assigned to a senatorial district, and given a voice in the election of one senator, it ceases to be a factor in any legitimate scheme of apportionment for senatorial purposes; (4) If a county is entitled to at least one senator or one representative, it is entitled to vote for at least that one senator or representative independently of any other county; (5) When the several counties have been given the representation to which they are entitled by reason of their full ratios, then the largest excess over such ratios should receive first consideration.[49]

Less than three weeks after the Parker decision the 1893 session, elected under a now invalidated act, convened. Democrats retained large majorities in both houses, and Democrat Claude Matthews sat as governor. The majority, with no fear of a veto, proceeded to enact an almost exact replica of the 1891 act. (See Appendix B, Maps 35-36.) Republican protests were vocal but ineffective. For instance, when Representative Marcus R. Sulzer of Jefferson County continued to denounce the bill "in a loud voice" after the speaker ordered him to take his seat, the doorkeeper physically forced Sulzer to sit down. The act was used in the election of 1894.[50]

Republican majorities in 1895 passed two bills dealing with apportionment. The first declared the 1893 act unconstitutional and repealed it. The second bill gerrymandered the state to Republican specifications. Both bills were passed over vetoes by Governor Matthews.[51]

On January 30, 1896, the state Supreme Court declared the 1895 act unconstitutional in *Denney et al.* v. *The State, ex rel. Basler.* The court held that the legislature lacked the power to repeal a previously enacted valid apportionment act, passed within the six-year cycle mandated by the Constitution. Further, said the court, it was "unseemly" for the 59th General Assembly to "cry out against the good faith of its predecessor, and to declare against the constitutionality of

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[49] 133 Ind. 178. The various court decisions are summarized in Leon H. Wallace, "Legislative Apportionment in Indiana: A Case History," *Indiana Law Journal*, 42 (1966), 42-47.

[50] *Laws*, 1893, pp. 356-58; *House Journal*, 1893, pp. 1040-41; *Senate Journal*, 1893, pp. 871-76; Sulzer incident, Indianapolis *News*, March 1, 1893.

[51] *House Journal*, 1895, pp. 771-73, 780, 1215-19, 1228, 1274; *Senate Journal*, 1895, pp. 726, 734, 866, 867; *Laws*, 1895, pp. 132-34.

the very law under which it was itself elected." Nonetheless, the court concluded, the 1893 act was also unconstitutional. Thus the 1885 apportionment was the only such act not so far declared unconstitutional and the 1896 election must be held under it.[52]

In 1897 Republicans controlled both houses and the governorship as the legislature passed the act of 1897 which was never tested in court and subsequently used to elect the general assemblies of 1899, 1901, 1903, and 1905.[53] (See Appendix B, Maps 37-38.) The session also repealed the 1885 apportionment act so that if the 1897 act were declared unconstitutional there would be no apportionment law on the books. In that case, the General Assembly would have to meet in special session to pass a new one.[54]

The 63rd General Assembly passed an apportionment act on schedule in 1903 but the state Supreme Court declared it unconstitutional on May 11, 1904.[55] The court relied on the decisions of the 1890s and pointed out that under the enumeration of 1902, an ideal Senate district would contain 13,886 voters. Under the 1903 act, the Senate district composed of Wayne County contained 11,287 voters (an over-representation deviation of 23 per cent) while the Senate district composed of Union, Franklin, Dearborn, Ohio, and Switzerland counties contained 17,715 voters (an under-representation deviation of almost 22 per cent). The court said that had Union been joined with Wayne instead of the Franklin-Dearborn-Ohio-Switzerland combination, both districts would have conformed much more closely to the rule of the Constitution.[56] At the next legislative session Republicans went back to the drawing boards and passed the apportionment act of 1905, which was used for the sessions of 1907 through 1915. (See Appendix B, Maps 39-40.) According to Leon Wallace, the act was an "improvement" over that of 1903 although twenty-two Senate districts and fifty-eight House districts were identical to those contained in the 1903 act.[57]

Although 1909 was the sixth year in the constitutional cycle, reapportionment was barely mentioned during the session. It was ignored because Democrats controlled the House and the governorship for the first time in eighteen years, but Republicans retained a majority in the Senate. All parties saw that no apportionment scheme could pass both houses and receive the governor's signature. In 1911 the Republican minority introduced several apportionment acts, but none got anywhere because it was the year of the Marshall constitution. Under that document, the six-year cycle would be replaced by a provision that legislative

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[52] 144 Ind. 503. The decision is summarized in Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:48-53.

[53] *House Journal*, 1897, pp. 711-20; *Senate Journal*, 1897, pp. 889-90; *Laws*, 1897, pp. 65-67.

[54] *Senate Journal*, 1897, p. 1144; *House Journal*, 1897, pp. 1141-42; *Laws*, 1897, p. 162.

[55] *House Journal*, 1903, pp. 1305, 1324-25, 1536; *Senate Journal*, 1903, p. 1311; *Laws*, 1903, pp. 358-60; 162 Ind. 568.

[56] Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:54-55.

[57] *House Journal*, 1905, p. 1603; *Senate Journal*, 1905, p. 1394; *Laws*, 1905, pp. 117-18; Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:55.

apportionment take place every ten years "according to the population as shown by the last preceding United States census . . . ."[58] In 1913, after the proposed constitution was declared unconstitutional, the Democratic-controlled General Assembly made no attempt to reapportion. It did pass the Stotsenburg amendments that included a proposal to base apportionment on the decennial census.

The Democrats controlled the legislative and executive branches for the last time during the era in 1915. They used their opportunity to pass the apportionment act under which the general assemblies of 1917, 1919, and 1921 were elected. (See Appendix B, Maps 41-42.) For the first time, the legislature passed separate bills for each house instead of a single bill incorporating the new districts for both.[59] Also, for the first and only time to date, the General Assembly permitted county commissioners, in counties assigned three or more House members, to create single-member districts for the election of such members, provided the districts were created before June 1, 1915. If the special districts were not created, such representatives were to be elected at large. Marion, Lake, St. Joseph, Vanderburgh, Vigo, and Allen were the counties affected. The commissioners must have failed to act because in all six counties members were elected at large in the general elections of 1916, 1918, and 1920.[60]

The 72nd General Assembly passed the last apportionment act of the era in 1921. The act passed with relative ease because of overwhelming Republican majorities that unknowingly set the districts for all legislative elections from 1922 through 1962.[61] (See Appendix B, Maps 43-44.) Seen in one perspective, the act of 1921 might be viewed in the words of Leon Wallace as "the subdued ending of a brawling period of apportionment wars which stretched back to 1879."[62] It would be more than forty years before the General Assembly engaged in another "apportionment war." Seen in another perspective, however, the act of 1921 might be viewed as the beginning of what is undoubtedly the greatest dereliction in the history of the General Assembly. The legislature did not reapportion again for more than four decades despite the requirement of the state Constitution that it do so every six years. The Republican and Democratic parties shared blame for this continuing nonfeasance because neither moved to redistrict the legislature when they controlled state government. Wallace conjectured that "State scandals in high places, the Ku Klux Klan, the Depression, the Defense Program, World War II, the Cold Wars, Korea—all may have contributed to

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[58] *House Journal*, 1911, pp. 1364, 1712, 1871-74, 1944; *Senate Journal*, 1911, pp. 1633, 1735-39, 1795, 1812. For the new apportionment provisions, see Dunn, "The Proposed Legislative Constitution of Indiana," *APSR*, 6:Supplement, p. 45.

[59] *House Journal*, 1915, pp. 1381, 1511-12, 1531; *Senate Journal*, 1915, pp. 912, 1040-41; *Laws*, 1915, pp. 599-600, 656-58.

[60] Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:56-57.

[61] *Laws*, 1921, pp. 174-76, 843-45. Representative Roscoe U. Barker, a Democrat from Posey County, voiced a complaint typical of the minority in every apportionment battle: "Have been retired from Legislature by the vicious re-apportionment of this 1921 session—so this is *finis*." Barker file, Centennial History of the Indiana General Assembly, Archives Division, Commission on Public Records, Indiana State Library, Indianapolis. Emphasis in original.

[62] Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:57.

distracting the minds of the voters from the question of how equally or how well they were represented in the General Assembly."[63] Whatever the reason, the Indiana legislature did not act again in this vital area until state and federal courts forced it to act at the 1963 session.

Governor Ed Jackson did not mention the duty to reapportion in his 1927 biennial message and, though several bills on the subject were introduced, none passed. Late in the session, Maurice Early of the Indianapolis *Star* pointed out that the legislature had a duty to reapportion the state but it would not happen because rural representatives opposed any plan that benefited large cities. In addition, said Early, "the Republican state committee is passive on the subject . . . [it] would not add much, if any, to the party's strength . . . ."[64] In 1929 the *Star* was indignant when the New Castle *Times* counseled rural legislators to ignore the apportionment requirement because "the state has enough of Gary and Indianapolis in the Legislature."[65] Neither outgoing Governor Jackson nor incoming Governor Harry G. Leslie mentioned apportionment in their addresses to the legislature. The only bill on the matter was referred to the House committee on legislative reapportionment and later withdrawn. Lawmakers could not temporize with the issue "without violating the law and their oaths of office" proclaimed the *Star*. "Unfortunately," the newspaper concluded, "there does not seem to be any specific punishment provided in such cases." That meant, said the *Star*, that such counties as Marion, Lake, St. Joseph, and Allen would continue to be under-represented as the era ended.[66] The lack of any specific punishment for legislators who refused to redistrict the state remained a problem until the 1960s.

Congressional Districting, 1891 through 1925

The General Assembly passed four congressional districting acts between 1890 and 1930. Democrats drew the districts in 1891 and 1911; Republicans in 1895 and 1901. In addition, Republican majorities tried unsuccessfully in 1917 and 1925 to redistrict the southern counties more to their liking. The effort in 1925 occasioned the most spectacular party bolt of the era.

The 1891 and 1895 acts followed similar routes through the legislature: in the former instance Democratic majorities overrode a veto by Republican Governor Alvin P. Hovey; in the latter instance Republican majorities overrode a veto by Democratic Governor Claude Matthews. In 1892 Democrats were elected to eleven of Indiana's thirteen seats as a result of their party's handiwork; in 1896 Republicans swept nine of the thirteen seats.[67] (See Appendix C, Maps 60-61.) The

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[63] *Ibid.*, 59.

[64] Indianapolis *Star*, February 28, 1927.

[65] *Ibid.*, January 8, 1929.

[66] *Ibid.*, January 2, 1929.

[67] *House Journal*, 1891, pp. 1328-31, 1358-60; *Senate Journal*, 1891, pp. 645-48, 878-79, 1122-23; *Laws*, 1891, pp. 136-37; *House Journal*, 1895, pp. 1016-17, 1469-70; *Senate Journal*, 1895, pp. 850-51, 1017-18; *Laws*, 1895, pp. 209-10; Clifton J. Phillips, *Indiana in Transition: The Emergence of an Industrial Commonwealth, 1880-1920* (Indianapolis, 1968), 37, 45.

Republican districting act of 1901 gave that party nine of the thirteen congressional seats in 1902 and 1906, and eleven seats in 1904. In 1908, due to the Conservative-Progressive split in the Republican party, Democrats won eleven of the thirteen seats.[68] (See Appendix C, Map 62.)

The Democratic districting act of 1911 remained in effect for the balance of the era. Under it, Democrats swept all thirteen congressional seats in 1912, the first time in history that party controlled the entire Indiana delegation. In 1914 the party kept eleven of the seats, but it dropped to four seats in 1916. The Republicans then swept all thirteen seats in 1918 and 1920, which explains why Republicans did not bother to redistrict again; they retained a majority of the Indiana delegation in each election until 1930.[69] (See Appendix C, Map 63.) The only efforts after 1911 regarding congressional districting involved Republican attempts to gerrymander districts in southern Indiana in 1917 and 1925. In 1917, with a 25 to 25 split in the Senate between Republicans and Democrats, a bill to change the first, second, and third districts was indefinitely postponed.[70] In 1925, with huge Republican majorities in both houses, Senate Democrats bolted to break a quorum and fled to Dayton, Ohio, in the face of Republican determination to redraw the second and third districts.

The Democratic bolt revived a technique that dated back to at least 1863 when a Republican minority fled in order to prevent a quorum and stop Democrats from defeating the war program of Governor Oliver P. Morton. In 1869, after passage of an anti-bolting bill, Democrats resigned *en masse* to defeat a quorum for ratification of the Fifteenth Amendment to the United States Constitution. In 1871 Republicans used the same strategy to prevent passage of a Democratic state apportionment bill.

Bolting and mass resignations were not used again until 1915. In that year House minority leader Jesse E. Eschbach organized a walkout on the last day to prevent Democrats from passing the "Joe Bell power grab bill." Mayor Joseph E. Bell of Indianapolis wanted the bill to gain control of several city boards and centralize the power of his office. When the bill came up for passage, the bolters went to a room at the Columbia Club on Monument Circle. After doorkeepers traced them to the Columbia Club, they went "down alleys and back streets, in small groups" to the Severin Hotel, three blocks away. Once at the Severin, the bolters vowed they would never be "taken alive." Rather than test such resolve, Democrats adjourned the House *sine die*. In 1923 House Democrats got as far as the lobby of the State House when they withdrew to protest a Republican appropriations bill. Doorkeepers restrained a sufficient number to retain a quorum and orderly business continued.[71]

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[68] *House Journal*, 1901, p. 1566; *Senate Journal*, 1901, p. 712; *Laws*, 1901, pp. 111-12; Phillips, *Indiana in Transition*, 89-95, 105-6.

[69] *House Journal*, 1911, p. 1715; *Senate Journal*, 1911, p. 1731; *Laws*, 1911, pp. 523-25; Phillips, *Indiana in Transition*, 117-27.

[70] *Senate Journal*, 1917, p. 165.

[71] For an account of party bolts prior to 1925, see Indianapolis *News*, February 26, 1925.

The chief protagonists in 1925 were Senators William K. Penrod of Loogootee and Joseph M. Cravens of Madison. Penrod, a Republican newspaper publisher, introduced a bill to move Lawrence County from the third to the second congressional district. He believed such a change would ensure his election to Congress from the second district in 1926, and the Penrod bill appeared destined for easy passage.[72] Cravens, a Democratic stalwart who served in the legislature almost continuously from 1903 to 1929, was the author of the 1911 districting bill that Penrod sought to change. The Democrat determined to stop the "gerrymander bill" by any means. At a caucus on February 24 Senate Democrats agreed to break a quorum by fleeing the state.

On Wednesday afternoon, February 25, thirteen senators from the minority boarded a bus at the Claypool Hotel bound for Dayton, Ohio, where that evening they checked into the Gibbons Hotel. A fourteenth, Harvey Harmon of Gibson County, arrived cold and wet after hitchhiking "in the open driver's seat of a moving van." Harmon had missed the "comfortably upholstered bus." For the next two days, U.S. 40 between Indianapolis and Dayton was jammed with process servers and Republican politicos trying to coax, cajole, or coerce the fugitives back to their seats in the Indiana Senate. If they did not return, the Republican program for the session was dead.

A Marion County Grand Jury threatened to indict the bolters for breaking a law that forbade lawmakers to "delay, defeat or obstruct" legislation by willful or intentional absence. President *pro tempore* James J. Nejdl asked Governor Jackson to call out the state militia to bring the absentees back. When Cravens (who acted as the Democrats' spokesman throughout the affair) was informed of Nejdl's request, he observed "I would rather have the Ku Klux Klan than the state militia." Cravens also claimed that Ohio authorities felt the Democrats could stay because an Indiana warrant was not good in Ohio. Meanwhile, back in the Senate, Republicans draped the seats of the Democrats in black crepe. They also read a telegram purportedly sent by Ohio's lieutenant governor on February 26 responding to a proposal to exchange five Ohio Republican senators for Indiana's fifteen Democrats. "Ratio is agreeable but afraid we have no suitable shipping crates . . . ," it stated.[73]

The Indianapolis newspapers enjoyed field days from February 25 through 27 serving a steady diet that included dignified statements from Dayton by Senator Cravens regarding the rights of a legislative minority and a heart-rending account of Senate "widows" left behind in Indianapolis. "This is the first time my husband and I have ever been separated," said Mrs. John C. Crosby. "On pleasure trips or business trips, I have always been with him." She added her hope that the Democrats stay in Dayton "a year if necessary. I'll just go to him."[74] In the meantime, Klan Grand Dragon D. C. Stephenson did go to Dayton to break the deadlock.

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[72] For the text of the bill, *ibid.*

[73] *Senate Journal*, 1925, p. 691. For Harmon's ride to Dayton, Indianapolis *News*, February 26, 1925; for Nejdl's request and Cravens' remark, Indianapolis *Star*, February 27, 1925.

[74] Indianapolis *News*, February 26, 1925.

Stephenson stood to lose his entire agenda in the General Assembly if Democrats did not return so the session could finish its work. According to the Indianapolis *Times*, Stephenson met with the bolters and assured them the Penrod bill would be dropped. He also promised immunity from arrest and that any indictments returned against Democratic senators would be quashed.[75] At 1:15 a.m. on February 27, fourteen Democrats arrived by bus back at the Claypool Hotel singing "When the Roll Is Called Up There, I'll Be There." They were greeted by Lieutenant Governor F. Harold Van Orman who assured them all matters would be settled amicably.[76] Thus ended the one colorful interlude of an otherwise drab session. On the last day, the Senate defeated the Penrod bill, and for the remainder of the decade the General Assembly forgot about congressional redistricting.

The history of state apportionment and congressional districting shows clearly that partisanship was the foremost consideration at each session where such laws passed. Gerrymandering by the majority always governed the drawing of district boundaries and the congressional elections between 1890 and 1930 illustrate both the efficacy and danger of the device for party advantage. In 1892 Democrats elected twelve of thirteen congressmen with only 47.1 per cent of the vote due to the Democratic districting act of 1891. Under the same bill in 1894 Republicans elected eleven congressmen. Under two Republican bills Republicans elected between eight and eleven congressmen in each election from 1896 to 1906. Under the Republican act of 1901, however, Democrats elected eleven and twelve congressmen respectively in 1908 and 1910. Democrats remained almost totally dominant in 1912 and 1914 under their districting act of 1911, but in 1916 Republicans began fourteen years of dominance under the same bill. This included Republican sweeps of all thirteen districts in 1918 and 1920. So while both parties succeeded in making districts safe for themselves temporarily, in the long run popular sentiment prevailed, proving that in Indiana there was no such thing as a gerrymander in perpetuity.[77]

Impeachment: The Case of Judge Clarence W. Dearth

There were eleven impeachments by the House of Representatives under the state's first Constitution between 1819 and 1835. Seven involved justices of the peace, two of whom resigned, three were convicted by the Senate, one was acquitted, and one had the matter dropped before the procedure was completed. In addition, two county clerks, one circuit court judge, and one sheriff faced charges drawn by the House. Of these, two were acquitted, the case of one was dropped, and the sheriff was convicted.[78] These cases involved essentially judicial

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[75] Indianapolis *Times*, February 27, 1925.

[76] Indianapolis *Star*, February 27, 1925.

[77] For an analysis of the influence of gerrymanders on congressional elections in Indiana from 1878 to 1942, see Louis E. Lambert, "The Congressional District System in Indiana," Institute of Politics, Department of Government, Indiana University, 1943, typescript in Indiana Division, ISL.

[78] For a synopsis of impeachment cases before 1927, see Indianapolis *Star*, March 3, 1927.

matters and consumed enormous amounts of legislative time that many felt could be put to better use. As a result, the Constitution of 1851 provided alternatives to impeachment. Article 6, sections 7 and 8, stipulated that the House might still impeach and the Senate try public officials for criminal conduct, incapacity, or negligence. But the General Assembly might also remove officials by joint resolution approved by two thirds of the members of each house, or officials could be removed "in such manner as may be prescribed by law."[79] Because of these alternatives, only one impeachment transpired in the General Assembly during the century and a half following 1835. The case involved Delaware County Circuit Court Judge Clarence W. Dearth in 1927.

On February 19, about three weeks before the 75th General Assembly was scheduled to end, the weekly Muncie *Post-Democrat* published an exposé of Judge Dearth, an admitted member of the Ku Klux Klan. The piece was written by George R. Dale, the paper's publisher, who told the Indianapolis *Star* his article was the culmination of a four year attempt to remove Dearth from the bench for lax law enforcement. When the paper appeared on the streets, Judge Dearth ordered all copies confiscated, cited Dale for contempt of court and criminal libel, and had the sheriff arrest thirty-eight newsboys who were delivering copies to subscribers. Dearth's actions—the smashing of freedom of the press by an apparently berserk judge and the terrorization of innocent youths because of personal pique—provided a melodramatic conclusion for an otherwise conventional session. On February 27, after Dale had fled to Ohio to escape imprisonment, the judiciary committee of the House took up a petition from Muncie citizens to impeach Judge Dearth.[80]

The time was especially right for the General Assembly to get involved in such a proceeding. The Klan was in bad odor because of the revelations regarding political corruption made to the Marion County Grand Jury by convicted Grand Dragon D. C. Stephenson. In addition, Governor Ed Jackson was fighting indictment on charges of attempting to bribe former Governor Warren T. McCray in a case that also involved Stephenson and the Klan. The proceedings against Dearth thus offered a golden opportunity to come down hard on the Klan while at the same time protecting citizens against a corrupt judge. On March 2 the House voted 93 to 1 to act under an 1897 statute that stipulated an impeached judge must be temporarily suspended from office and the governor must fill the vacancy temporarily by appointment with the advice and consent of the Senate. The act also stipulated that the Senate would sit as a judge, continuing in session if necessary after adjournment *sine die*.[81] As the case unfolded, state Attorney General Arthur Gilliom said the House could not impeach a judge although he admitted there was no Supreme Court decision covering such a question. By

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[79] Kettleborough, *Constitution Making in Indiana*, 1:337.

[80] Indianapolis *Star*, February 27, March 3, 1927. Dale ultimately was exonerated of the charges made by the judge and elected mayor of Muncie in 1929 as a Democrat. Robert S. and Helen Merrell Lynd, *Middletown in Transition: A Study in Cultural Conflicts* (New York and London, 1937), 323-25.

[81] *House Journal*, 1927, p. 702; *Laws*, 1897, pp. 278-82.

March 8 the attorney general declared that the 1897 statute was probably unconstitutional and recommended the auditor not issue pay warrants for the proceedings. Governor Jackson accepted these opinions and announced he would appoint no successor to Dearth. For his part, Judge Dearth initiated a law suit in the Marion County Circuit Court to test the constitutionality of the legislature's proceedings against him.[82]

The House nonetheless proceeded. On February 28 the committee heard testimony from Muncie citizens who charged that Judge Dearth placed only members of the Woman's Christian Temperance Union on juries in prohibition cases. Other witnesses felt the judge acted unlawfully in citing George Dale for contempt of court.[83] The House drew formal articles of impeachment on March 2 and, on March 3, the Senate voted to try the case. There were seven charges, the first of which read in part:

> . . . the said Clarence W. Dearth . . . did wrongfully, tyrannously, oppressively, unlawfully and corruptly cause a large number of newsboys to be arrested and brought before him, and did order their newspapers taken from them and told them that such papers would not be returned to them; that he ordered each of said boys to give his name and address to the sheriff and before releasing them threatened said boys that any further sale of that newspaper would result in their being brought before him as juvenile judge and placed upon probation; that these boys had been arrested upon the streets by policemen acting under orders of the said Judge Clarence W. Dearth and that their papers were confiscated by the sheriff of Delaware county, acting upon the judicial order of the said Judge Dearth, without charges having been preferred against said boys, or any of them without any prior notice to such boys, or any of them, without any indictment or affidavit or other charges or information having been presented, and without an opportunity upon the part of said boys, or any of them, to be heard in their own defense and without due process of law.

This was the most sensational of the charges. The judge was also accused of drawing potential jurors' names from the telephone directory instead of voter registration lists, as well as corruption and other high crimes against the Constitution, statutes, and laws of the state of Indiana.[84]

Representative William Henry Harrison of Indianapolis, grandson of former President Benjamin Harrison, was one of Dearth's principal accusers in the House. Ironically young Harrison's father, Senator Russell B. Harrison of Indianapolis, would sit in judgment on the charges his son helped draw. The trial began on March 21 and lasted until April 1. The elder Harrison voted with a majority to convict Dearth on six of the seven counts, but the judge was acquitted because none of the charges mustered the two-thirds vote necessary for conviction.[85]

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[82] Indianapolis *Star*, February 27, March 3, 4, 9, 1927.

[83] *Ibid.*, March 1, 1927.

[84] *Senate Journal*, 1927, pp. 919-22.

[85] William Henry Harrison file, Centennial History, ISL. The Harrisons were the first father and son to serve at the same session. For the impeachment and trial, *House Journal*, 1927, pp. 578, 700-2, 744, 789, 796; *Senate Journal*, 1927, pp. 848-53, 879-81, 911-23, 958-64, 1010; Indianapolis *Star*, March 21 through April 2, 1927.

Dearth continued to serve as judge of the forty-sixth circuit until his term expired on January 1, 1929. The last word on the impeachment came on January 11, 1929, when the state Supreme Court ruled that the legislature had no power to impeach a circuit court judge and thus had acted improperly in 1927. The 1897 law did not apply, said the court, because only the Supreme Court could impeach a judge or prosecuting attorney, and only after they had been convicted of corruption or other high crimes. The Indianapolis *Times* noted editorially that the court's decision was an "absurdity" and Dearth only escaped conviction by a narrow margin because a few senators were influenced on Dearth's behalf by "utility lobbyists and Klan officials."[86]

The Political Parties, 1890 to 1930

On March 6, 1929, just five days before the 76th General Assembly ended, Republican Governor Harry G. Leslie presided over an unusual bipartisan meeting at his office in the State House. Present were Leslie's party colleagues Lieutenant Governor Edgar D. Bush and Speaker of the House James M. Knapp as well as state Democratic national committeeman Charles A. Greathouse, Marion County Democratic chairman Michael E. Foley, and Dr. Carleton B. McCulloch, an active Democratic worker and physician. At the meeting the Republican leaders of the Senate and House agreed to call a joint session of the legislature on March 8 to memorialize Thomas Taggart, veteran leader of the Indiana Democratic party, who had died that morning. The lieutenant governor and the speaker appointed bipartisan committees in each house to draft appropriate resolutions. Senator Joseph M. Cravens and Representative George L. Saunders, the minority leaders, then announced Taggart's passing to their respective houses with trembling voices and the legislature immediately recessed for five minutes. The joint memorial service was conducted on the afternoon of March 8, while private funeral services were being conducted for Taggart at his Indianapolis home.[87]

The sorrow on both sides of the aisle was genuine that afternoon because politicians, regardless of party, knew that the titan of the Indiana Democracy had died. An era had ended during which, in the words of Clifton Phillips, "Indiana was perhaps best known . . . for its political managers, notably the Democrats' Tom Taggart and the GOP's Will Hays, who built powerful state organizations."[88] Both Taggart and Hays personified their parties as no other individuals in Indiana politics between 1890 and 1930. Each was a political professional with exceptional organizational talents. "'Politics is a business,'" said Taggart in 1904, "'and should be regarded as a business and conducted in business principles.'"[89] Hays agreed absolutely, and the work done by his organization in the state campaign of 1916 "closely resembled the activities of

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[86] *State of Indiana* v. *Dearth*, 201 Ind. 1; Indianapolis *Times*, January 12, 1929; Indianapolis *Star*, January 12, 1929.

[87] Indianapolis *Star*, March 7, 1929; *House Journal*, 1929, pp. 737-38, 764-65, 810.

[88] Phillips, *Indiana in Transition*, 129.

[89] Indianapolis *Star*, March 7, 1929.

a great business or industrial concern."[90] Each devoted himself with astonishing success to the task of organizing the state for the sole purpose of electing partisans from township trustee to the White House. The ebb and flow of Democratic and Republican fortunes through most of the era revolved around their strengths and weaknesses, as well as their similarities and contrasts.

Tom Taggart was born in Ireland in 1856 and immigrated at the age of five with his parents to Xenia, Ohio. His formal education was limited to a few years in the Xenia common schools. At age fourteen he found employment as a restaurant clean-up boy and roustabout at the local railroad station. He moved to Garrett, Indiana, in 1874 at the age of eighteen where he was in charge of a restaurant, and to Indianapolis in 1877 where he became manager of the Union Station restaurant. In the same year he became a Democratic ward worker and started his ascendancy in party circles. He served two terms as Marion County auditor and in 1888 was elected county chairman just in time to deprive Benjamin Harrison of his home county in the presidential election. In 1892 he became state chairman and organized Grover Cleveland's defeat of Harrison in Indiana. Taggart then served three terms as mayor of Indianapolis from 1895 to 1901. In 1900 he began a long tenure as the state's Democratic national committeeman, during which he brokered the vice-presidential nominations of John Worth Kern in 1908 and Thomas Riley Marshall in 1912. In 1916 Governor Samuel M. Ralston appointed Taggart to complete the term of United States Senator Benjamin F. Shively, who died. Taggart reached the zenith of his national power at the 1924 Democratic national convention when he almost named Ralston as his party's presidential nominee. But Ralston was fatally ill at the time and lost the nomination to John W. Davis of West Virginia.

During these same years Taggart became a successful entrepreneur. In the late 1880s, while county auditor, he purchased the Grand Hotel, site of the headquarters for the Democratic party in Indianapolis. In the 1890s he added the Denison Hotel to his holdings, and in 1901 he acquired the French Lick Springs resort which soon made him a multimillionaire with its famous "Pluto water." Such was Democrat Tom Taggart, a poor, almost destitute Irish immigrant who embraced the Episcopalian church and became the embodiment of the self-made man. He was not given to self-promotion or speechmaking but rather worked behind the scenes, building his party on a person to person basis. For forty years Democrats in Indiana owed much of their success on the state and local level to him.[91]

Will Hays, by contrast, epitomized the small town, native, white, Protestant, temperance-inclined Republican of the era. He was born in Sullivan, Indiana, in 1879, reared in the Presbyterian church, educated at Wabash College, and from early childhood destined to follow his father into a law career. He was

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[90] Garland Chamberlain Routt, "Will Hays: A Study in Political Leadership and Management" (M.A. thesis, University of Chicago, 1937), 70.

[91] For Taggart's career, Indianapolis *Star*, March 7, 1929, May 15, 1949, February 27, 1966; Indianapolis *News*, March 6, 1929, January 21, 1966; Indianapolis *Times*, March 7, 1929.

from birth to age thirty-seven, in the words of one critic, "steeped in Indiana statecraft, churchcraft, and lodgecraft" where "politics reached its highest development . . . ."[92] Upon graduation from college, Hays returned to Sullivan to practice law. He also taught a Sunday school class at the Presbyterian church and joined such fraternal groups as the Masons and Elks. His Masonic membership was the most significant. He joined before he was twenty-one and within four years took the 32nd degree. Hays was encouraged by his father who believed that the teachings of Masonry were well worth the time spent in their practice. In fact, when the elder Hays gave Will a one-third interest in the law firm in 1902, the father stipulated the hours the son must spend in the office "but he also stated that time spent in the study of Masonry would be considered as time spent in the office."[93] Hays' activities in church and fraternal organizations widened his circle of friends and developed his capacity for leadership. By 1903, after a year as precinct committeeman, he was ready to advance in the Republican party.

From 1903 to 1907, Hays served as Sullivan County chairman. In 1910 he was elected district chairman, a post he held until 1914. He also served from 1910 to 1914 as Sullivan city attorney. In 1904 Hays became a member of the Republican state advisory committee, and in 1906 he became chairman of that committee's speakers bureau. In 1912 he was elected vice-chairman of the state central committee, and two years later chairman. Hays' spectacular success in healing the Progressive-Republican split, manifested best by the Republican victory in the 1916 state elections, led inevitably to his election as Republican national chairman in 1918. From this post he engineered the Republican sweep in the mid-term congressional races and the Harding landslide in 1920. He was rewarded with appointment as Harding's postmaster general in 1921. In 1922 Hays left Republican politics to become guardian of morality in the movies as head of Hollywood's so-called "Hays Office" at an annual salary of $100,000. He retired in 1945 and became once again "'Will Hays from Sullivan, Indiana.'" There he was born and reared, kept his legal residence and his law office, died on March 7, 1954, and is buried.[94]

Upon becoming state Republican chairman in 1914, Hays defined political parties as "means by which thinking men promulgate and practice principles for the government for their own country—for the control of influences surrounding the place they call their home." He added that Republicans did not care "how a man voted in 1912—nor his reason for doing so." The important thing was that Progressives rejoin the Republican party: "'we cannot do without you; we have work to do for the good of the country and it takes both of us to do it.'"[95] The Republican resurgence in Indiana began immediately and became total

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[92] Alva Johnston, "Will H. Hays: Czar and Elder," *The New Yorker* (June 10, 1933), 19.

[93] Walden S. Freeman, "Will H. Hays and the League of Nations" (Ph.D. dissertation, Indiana University, 1967), 12-13.

[94] Quotation, Indianapolis *News*, December 24, 1965. For Hays' career, see *ibid.*, and Routt, "Will Hays: A Study in Political Leadership and Management."

[95] Freeman, "Will H. Hays and the League of Nations," 22-25.

by 1916. Under Hays' lead, the Republican State Editorial Association became the propaganda and publicity bureau of the state committee. Rural Republican newspapers even revived the Copperhead issue with a series of articles describing the traitorous activities of southern sympathizers during the Civil War. By implication these articles branded all Democrats as disloyal.[96]

But Hays did not stop with the printed word. In 1916 he made Indiana the first state to use motion pictures as a medium for political propaganda. The chairman produced a ninety minute spectacular, "A Re-united Republican Party," that was shown free in theaters throughout the state. It emphasized friendly meetings between Progressive and Old Guard leaders, the necessity of unity and harmony, and the horrors of Woodrow Wilson's intervention in Mexico. Fighting between United States Marines and Mexicans was portrayed graphically, ending with views of the funerals of the dead in Vera Cruz and New York City.[97] Hays' extraordinary effort to reunite the party paid immediate dividends at the 1917 General Assembly where the Senate contained twenty-five Democrats, twenty-four Republicans, and one Progressive holdover, Walter McConaha of Richmond. On January 2 McConaha announced his return to the Republican party, ensuring Republican organization of the Senate and the election of Arthur R. Robinson as president *pro tempore*.[98] The organization built by Will Hays and the campaign techniques he developed kept the Republican party in absolute control of state government until the Great Depression.

The election of 1916 was of extraordinary importance in Indiana because the political fortunes of many of the most high powered political technicians of the era were at stake. Charles W. Fairbanks, who dominated the state Republican machine from 1894 until he became Theodore Roosevelt's vice-president, was the Republican vice-presidential candidate. His opponent was former Governor Thomas R. Marshall, seeking a second term as Woodrow Wilson's running mate. Taggart and Harry S. New were opponents for a United States Senate seat. Both men had been state and national chairman of their respective parties, New as recently as 1908. New defeated Taggart for the Senate seat, served one term, and then replaced Will Hays as United States postmaster general in 1923. John W. Kern, Taggart's chief lieutenant in building the Indiana Democracy, also ran for the United States Senate in 1916. His triumphant opponent, James E. Watson, dominated the state Republican machine from 1918 to 1933. Kern had lost for governor in 1900 and 1904, and for vice-president in 1908. Collectively, these six men plus Hays were driving forces behind the state's two major parties for forty years. New and Kern were the only two with state legislative experience. Each served one term as a senator from Marion County in the 1890s.

Although partisan politics remained a bitter, at times brutal, business between 1890 and 1930 the professionalism of men like Taggart, Kern, Hays, and Watson ensured that Indiana would function reasonably well regardless of which party

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[96] *Ibid.*, 25; Routt, "Will Hays: A Study in Political Leadership and Management," 73-74.
[97] Routt, "Will Hays: A Study in Political Leadership and Management," 74.
[98] Indianapolis *Star*, January 3, 4, 1917.

had temporary advantage. Unlike the previous era, when partisanship frequently paralyzed state government, the era witnessed no irreconcilable legislative-executive conflicts, no protracted party bolts, and no failure to appropriate sufficient funds on time. Watson testified that "for years" he and Taggart "quietly worked together" to prevent the enactment of "'radical'" legislation regardless of whether the current state administration was Democratic or Republican.[99] While Watson did not define what he meant by "'radical,'" the fact of such cooperation helps explain why there were no sharp breaks with the past or complete changes in the direction of government when Democrats replaced Republicans in Indianapolis from 1909 to 1915. Clifton Phillips concluded that it was possible to view those Democratic years "as merely an interlude in the long-range Republican dominance of the . . . state, beginning in 1896 and enduring for more than a decade after 1920." The sheer force of numbers in the Indiana General Assembly from 1891 to 1929 proves that the era must be viewed as one of nearly total Republican dominance except for, in Phillips' words, "the progressive Democratic hegemony between 1909 and 1915."[100]

Seventeen hundred fifteen Republicans (57.2 per cent), 1,266 Democrats (42.2 per cent), and seventeen members of third parties filled the 2,999 seats during the twenty sessions. (A House seat from Allen County remained unfilled at the 1901 session due to the death of Representative-elect Charles L. Drummond.) This head count shows conclusively that while the two major parties dominated Indiana politics during the era, they were no longer exactly evenly balanced in the General Assembly as they had been between 1851 and 1889. Republicans had substantial majorities in both houses, 1,152 to 836 in the House, and 563 to 430 in the Senate. Republican majorities in the House ranged between 60 per cent and 80 per cent at ten of the sessions and would have been nearly 60 per cent overall except for the 1913 session. That year, as a result of the Progressive split from the Republican party, the roll call showed ninety-five Democrats, four Republicans, and one Progressive. These figures constituted the largest majority and smallest minority totals for a major party in either house during the legislature's history.[101] By contrast, the next lowest Republican total during the era was twenty-six members in 1891. In 1893 and in 1909, 1911, and 1915 the Republican minority ranged from thirty-seven to forty members. Republicans enjoyed a majority at every other session, including eighty or more members in 1895, 1919, 1921, 1925, and 1929. At these last five sessions Democrats had twenty or fewer members, including a low of eleven in 1921.[102]

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[99] Watson to Charles M. Thomas, July, 1937, cited in Thomas, *Thomas Riley Marshall*, 69. The same kind of understanding existed between Taggart and Hays. Freeman, "Will H. Hays and the League of Nations," 35.

[100] Phillips, *Indiana in Transition*, 131.

[101] The Democratic majority of ninety-one to nine Republicans at the 1933 session was the only other time that a major party's minority representation in the House dropped to less than ten.

[102] Figures based upon data in *A Biographical Directory of the Indiana General Assembly* (2 vols., Indianapolis, 1980, 1984), Vol. 1, *1816-1899*, Vol. 2, *1901-1984*.

The People's party (or Populists) in the 1890s and the Bull Moose Progressive party of 1912 were the only third parties to elect state legislators during the era. The Populists in Indiana were political descendants of the Greenbackers of the previous era, and enjoyed their only success in legislative districts at the 1896 elections. In that year, William Jennings Bryan was the presidential candidate of both the Democratic and Populist parties. Although Democrats and Populists each nominated a different vice-presidential candidate, in Indiana the Bryan candidacy led to a Democratic-Populist "fusion" in some rural districts where candidates were listed under both parties on the ballots.[103] As a result, three "fusionist" senators and nine "fusionist" representatives served at the 1897 session. The senators were William B. Gill (Montgomery County), James A. Campbell (Clinton County), and George W. Rogers (La Porte County); the representatives were John C. Engle (Pulaski County), Thomas A. Graham (Clark County), David Haifley (Miami County), David D. Hart (Gibson County), George J. Kayser (Clay County), Dick Miller (Parke County), Sanford Patterson (Daviess County), Albert Schoonover (Fountain County), and Sylvester V. Titus (Boone County).[104] The seats of four of these were contested on grounds that "fusion" was illegal because such candidates had not been nominated by a convention or in a primary, and their names were placed on the ballot twice—once as Democrats and once as Populists. Graham and Miller successfully defended themselves against such contests, while Hart was unseated in the House on January 26 and Rogers unseated in the Senate on January 28.[105] Thus, only eight Populist representatives and two Populist senators served for the entire session. All twelve voted without exception with the Democratic minority on roll calls.

The Progressive party of 1912-1914 held five seats to become the only third party during the twentieth century with representation in the General Assembly. Representative John W. Judkins (1913, 1915) and Senator Walter McConaha (1915) were elected as Progressives, although McConaha switched back to the Republican party before the 1917 session convened. Both Judkins and McConaha were from Wayne County, "the strongest center of Progressivism in the state."[106] The other two Progressive seats were held by Senators John A. Hibberd of St. Joseph County and Frank N. Gavit of Lake County, both of whom switched to the third party after winning election in 1910 as Republicans. Unlike the

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[103] Ernest D. Stewart, "The Populist Party in Indiana," *Indiana Magazine of History*, 15 (1919), 63-65.

[104] There is some confusion concerning the number of Populists who were elected to the General Assembly in 1896 because they were all listed as Democrats in the report of the secretary of state. Stewart gives the names of eight representatives and one senator, *ibid.*, 65, n. 46, while Kettleborough, *Constitution Making in Indiana*, 2:317, reports three senators and nine representatives without naming any of them. The twelve were identified for this study by using Stewart's list, analyzing the contested elections in each house, and from data gathered for *BD* 1.

[105] *House Journal*, 1897, pp. 10, 337-39, 360-65; *Senate Journal*, 1897, pp. 9-12, 355. The Indianapolis *News*, January 8, 1897, identified all of the contested members of the House as "fusionists."

[106] Phillips, *Indiana in Transition*, 118. See also Carl Painter, "The Progressive Party in Indiana," *IMH*, 16 (1920), 173-283.

Populists in 1897 who voted liberal on all organizational matters, the Progressives rarely voted for liberals at the 1913 and 1915 sessions. In 1913 Gavit voted with the Democrats to elect George W. Curtis, Jr., president *pro tempore* but with the Republicans on patronage positions; Hibberd did not vote on any of the organizational matters. In 1913 Judkins voted with the Democrats to elect a doorkeeper; otherwise he did not vote on any organizational matters during his two terms. In 1915 McConaha voted with the conservative Republican minority for president *pro tempore* and on all patronage questions.[107]

The Populist and Progressive parties were the only third parties since 1890 to elect members to the Indiana General Assembly. They held only seventeen of the more than 6,000 seats filled between 1890 and the present. Populists were a factor in the legislative process only at the session of 1897 when they "fused" with the Democratic minority. Within a year they were absorbed by the older party and disappeared as a separate entity in state politics. The Progressives made their mark in the legislature between 1911 and 1915 primarily by destroying for a time the Republican hold on state government. Democrats were the temporary beneficiaries but once Progressives rejoined the Republican party in 1916 Democrats resumed the minority role they filled until the Great Depression. The relative lack of success by both Populists and Progressives showed the futility of third party movements in Indiana politics. The state's legislators certainly recognized this as true. Since 1915 not a single lawmaker has borne the Prohibition, Socialist, Communist, American, or any party label other than an unhyphenated Democrat or Republican while serving. All have served as a member of one of these two parties, broad enough between them to encompass all viewpoints and professionally organized to elect candidates from the precinct level to the State House. The professionalization occurred between 1890 and 1930, the handiwork of men like Thomas Taggart and Will Hays. The techniques may have been refined to meet changing circumstances and technology, but the two party system has endured and served the state for almost a century. In the ninth decade of the twentieth century there is no evidence that in Indiana it will ever be otherwise.

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[107] *Senate Journal*, 1913, pp. 4-5; *ibid.*, 1915, pp. 6-8; *House Journal*, 1913, pp. 9, 14-16; *ibid.*, 1915, pp. 9, 13-15.

Chapter 11
The Legislative Process

The first step toward participating in the legislative process between 1890 and 1930 was partisan activity at the ward, precinct, township, city, or county level. At least 57 per cent of those who served during the era had such service, the vast majority of them before their advancement to the General Assembly.[1] Once party loyalty was established on one of these levels, Republican or Democratic party endorsement was more likely for those seeking a term in the legislature. Support from precinct committeemen within the district was helpful in securing such endorsement because precinct committeemen elected county chairmen. Endorsement by the chairmen from each county embraced by the legislative district was most crucial because it ensured backing by the local party machine. Without such backing candidates had little hope of winning.

The intensity of party politics in the 1880s had caused popular questioning about how nominees were endorsed and elected. The scandals of that decade, with frequent charges of buying and selling votes, cast doubt over the entire electoral process. In response, the General Assembly of 1889 passed the secret ballot law.[2] This act helped restore popular confidence in the integrity of Indiana's elections because under it political parties relinquished control over ballots and polling places. The act did not deal, however, with such important areas of potential trouble as voter registration and the handling of absentee ballots. Reformers also remained upset because the parties, not the people, still controlled nominations. Thus, electoral reform was a constant concern of lawmakers and would-be lawmakers.

Laws and Some Special Interest Groups in the Election Process

Election reforms proposed during the early 1890s included bills that would tighten foreign residency requirements for voters and require voting machines. No election bill passed until 1897 when lawmakers mandated that voting would be by blue pencil instead of by rubber stamp, that a candidate's name might appear on the ballot only once, and that candidates might accept the nomination of only one political party.[3] This Republican measure was intended to stop fusion between the Democratic and Populist parties. Several bills dealing with voting machines had little support in 1897 and one instituting primary elections for city offices was indefinitely postponed. This latter bill was occasioned by popular demand for primary elections in larger cities, a demand that grew intense by

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[1] Percentage based upon quantification of data in *A Biographical Directory of the Indiana General Assembly* (2 vols., Indianapolis, 1980, 1984), Vol. 1, *1816-1899*, Vol. 2, *1901-1984*.

[2] See above, pp. 228-29.

[3] *House Journal*, 1897, pp. 967-68; *Senate Journal*, 1897, p. 592; *Laws*, 1897, pp. 49-55.

the end of the decade. In 1899 the House passed a limited primary bill but it failed in the Senate.[4]

Representative Joseph A. Minturn of Indianapolis sponsored the first primary election bill to become law. As passed by the House in 1901, because of the population total stipulated, Minturn's bill applied only to candidates in Marion County (including state representatives and senators). The Senate changed the population total so as to include Vanderburgh County and made primaries optional in other counties with a population of less than 50,000 people. The House accepted this change and as it became law the Minturn act also stipulated that party organizations would manage the elections and bear the expense.[5] Reformers lamented this last provision because it left parties in control of nominations. So in 1905 the legislature acted to remove parties from the nominating process in all cities with a population of 36,500 to 43,000 people. (This could only apply to Terre Haute and Vigo County.) There all candidates for township, city, and county offices, as well as precinct committeemen and delegates to the district and state conventions, would be selected in a primary election with the expense borne by the county and the candidates. Under the act aspirants for the General Assembly must pay a $25 fee and file notice of candidacy not more than twenty nor less than fifteen days before the election.[6] Another act of 1905 disfranchised for ten years anyone convicted of buying or selling votes.[7]

Continued demand for popular control of nominations and the growing influence of Progressivism in the Republican party led to passage of a general primary law in 1907. The act made primaries mandatory for all county, township, and city offices, precinct committeemen, and delegates to state and congressional conventions in counties containing cities with more than 36,000 inhabitants. Marion, Vanderburgh, Vigo, St. Joseph, and Allen were the counties affected; in the other counties, primaries were optional. Originally the bill also abolished district and state conventions but these were restored on second reading at the insistence of Republican party managers.[8]

Advocates of primary elections won their greatest victory in 1915 when a Democratic legislature passed a compulsory, statewide law. The act stipulated that all township, city, county, state, and congressional nominees must be chosen in a primary. It also required delegates to state and national conventions to support any candidate for president, United States senator, or governor who

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[4] *House Journal*, 1899, pp. 1586-87; *Senate Journal*, 1899, pp. 1268-69.

[5] *House Journal*, 1901, pp. 102, 765, 1732, 1813-14; *Senate Journal*, 1901, pp. 842-43, 1014; *Laws*, 1901, pp. 495-505. For primary election laws from 1901 to 1921, see John Frederick Connell, "Indiana Primary Laws," *Indiana Magazine of History*, 18 (1922), 224-38.

[6] *Laws*, 1905, pp. 122-27.

[7] *Ibid.*, pp. 481-82; *Senate Journal*, 1905, pp. 213-14, 1077-78, 1145; *House Journal*, 1905, p. 1871.

[8] Senator Martin M. Hugg of Indianapolis restored conventions after Republican chairmen from around the state complained to a party caucus. Hugg to John F. Connell, May 24, 1921, as cited in Connell, "Indiana Primary Laws," *IMH*, 18:230. See *Senate Journal*, 1907, pp. 135, 1566; *House Journal*, 1907, p. 2357; *Laws*, 1907, pp. 627-52.

received a majority vote.[9] According to an analysis of state primaries from 1916 through 1920 by the Legislative Reference Bureau, however, the act did not lead to popular control of nominations. Most candidates during those years had no opposition, said Charles Kettleborough, meaning they were either controlled by or favored by party machines.[10] The 1915 law did make the nomination process more expensive for parties since they had to pay most of the cost.

Professional politicians in both parties sought to repeal the act of 1915 at each subsequent session. The House indefinitely postponed the first attempt in 1917; at the first special session of 1920 a repeal bill passed the House but was never taken up in the Senate.[11] When attempts at repeal intensified during the 1920s, party professionals were opposed by some formidable and effective pressure groups that fought hard to retain the law. The League of Women Voters was the foremost such group. Formed in 1920, in the wake of ratification of the Nineteenth Amendment, the League lobbied for better government through education and political activity by women. Purification of the electoral process and equal participation by women in political parties stood highest on the League's agenda. To achieve the former, members worked intently for a voter registration law and to strengthen the primary system.

The League stood almost alone at the 1921 session (the first after women received the vote) in defending primary elections. Petitions from chapters all over the state were presented to both houses and letters against party managers from angry women filled the Indianapolis newspapers. As a result, a bill to restore the convention system of nomination was killed in the Senate.[12] Two years later the press reported "SKIDS READY FOR PRIMARY" because a majority of both parties favored a return to conventions. The Republican leadership in both houses intended to act without holding public hearings. In this situation, the League of Women Voters gained a valuable ally in the person of former United States Senator Albert J. Beveridge. The ex-leader of state Progressives convinced enough key Republicans in both houses to kill the repeal effort.[13]

The League eyed a more important goal for its major effort in 1923: equal representation for women in the structures of the Republican and Democratic parties. A bill requiring such representation from the precinct to the state level passed the Senate. Known as the "Fifty-Fifty" bill, it stipulated that if a male were president or chairman of a party committee, the vice-chairman must be a woman. The bill got as far as second reading in the House before Speaker Raymond C. Morgan locked it in his desk. League members discovered the bill

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[9] *House Journal*, 1915, pp. 150, 932-33; *Senate Journal*, 1915, p. 1140; *Laws*, 1915, pp. 359-91.

[10] Connell, "Indiana Primary Laws," *IMH*, 18:231-32.

[11] *House Journal*, 1917, pp. 114, 669; *ibid.*, 1920 (1st s.s.), 184-85.

[12] *Senate Journal*, 1921, p. 180, for a typical petition from the Anderson League of Woman Voters; Indianapolis *News*, January 27, 1921.

[13] Indianapolis *Star*, January 9, 10, 1923.

there at the end of the session, with the notation "Hold until hell freezes over."[14]

When Albert J. Beveridge and the League of Women Voters continued their efforts against repeal of the primary law in 1925, they received unexpected help from a powerful source. Ku Klux Klan Grand Dragon D. C. Stephenson and Governor Ed Jackson came out foursquare favoring primaries. Unlike Beveridge and the League, Stephenson was not motivated by idealistic notions regarding the right of the people to nominate candidates. Rather Stephenson had discovered that primary elections were effective in nominating the "right" people for office from both parties. Under Stephenson's leadership the Klan distributed voting sheets at polling places during the primary and general elections in 1922 and 1924. These Klan lists divided candidates by party into "Yes" (pro-Klan), "Neutral," and "No" (anti-Klan) blocs. As a result, the Klan controlled most Republican nominees in Marion County after the 1924 primary; in some counties the bedsheeted knights controlled candidates of both parties.[15] Stephenson wielded such influence at the 1925 session that the question of primary repeal never reached the floor of either house despite the fact that professional managers in both parties wanted the law scotched.

The battle over primary elections ended temporarily in 1929 when the Republican legislature performed "a ghoulish dance on the grave of the late Senator Beveridge" by repealing the act of 1915.[16] The bill provided for nomination of candidates for governor and United States senator by state convention instead of by primary and eliminated the presidential preference primary. It passed with bipartisan support, not surprising in the face of a call for repeal by the platforms of both parties in 1928 plus the insistence of Republican Governor Harry G. Leslie and Democratic national committeeman Charles A. Greathouse. The League of Women Voters was joined by the Anti-Saloon League and the Woman's Christian Temperance Union in opposing repeal but their protests went for naught.[17] General, statewide primary elections (including the presidential preference primary) would be restored later, but as Indiana entered the 1930s Indiana's primary election system had been weakened by the act of 1929.

While the League of Women Voters lost the fight over primaries in 1929, it almost succeeded with a voter registration bill. In 1926 James E. Watson was reelected to the United States Senate on the strength of late returns from Lake County. Watson's victory came amidst charges that the Republican party imported busloads of voters from Chicago on election day. In 1928 Mary Zeola Hershey Misener, a member of the League, won a House seat from La Porte County when she promised to curb such practices by requiring voters to register. Misener's

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[14] *Senate Journal*, 1923, pp. 332, 400, 585, 636; *House Journal*, 1923, pp. 595, 672, 732, 745, 778; Indianapolis *Star*, March 4, 5, 1923.

[15] Indianapolis *Star*, January 7, 1925; Indianapolis *Times*, January 7, 13, 1925. For a typical list of Klan endorsements, see Indianapolis *Indiana Catholic and Record*, October 31, 1924.

[16] Indianapolis *Times*, February 28, 1929.

[17] Indianapolis *Star*, February 13, 28, March 8, 1929; *Senate Journal*, 1929, pp. 148, 382-83, 487-90, 557, 559, 644-45, 905-8; *House Journal*, 1929, pp. 621, 658-59, 750, 784-85, 817, 881; *Laws*, 1929, pp. 223-27.

bill passed both houses while party managers and Governor Leslie concentrated on repeal of the primary law.[18]

There was near pandemonium on the last day of the session when Don Roscoe Martin of Logansport moved that the Senate reconsider its vote and request the House to withdraw the Misener bill from the governor's desk. Representative Misener, a former actress and instructor of public speaking, wasted no time. Using all of the stage presence at her command, she marched directly to the Senate, came down the aisle, and said she had been to see the governor who said he was not in favor of withdrawing the bill. Misener's performance was too much for Senator George W. Sims of Terre Haute. He yelled from the rear of the chamber that the lady was not a member of the Senate and thus not qualified to speak. The intruder was stopped by a point of order. "That's all right. I've said it all anyway," proclaimed Misener as she was escorted from the Senate to the accompaniment of loud applause from the gallery. Then shouts of "Call the police!" rang out to bring back senators who had left to avoid the roll call. In the meantime, Governor Leslie equivocated when visited by a delegation from the League. The bill failed to become law because of his pocket veto.[19]

Legislative enactments regarding primary elections meant that, beginning in 1902, candidates for the General Assembly from Marion and Vanderburgh counties faced two elections to win a seat. In 1908 this became true for candidates in all counties with cities of over 36,000 residents. After 1915, it was true for legislative candidates statewide. The legislature's action in 1929, therefore, meant a reversion to the system of the 1890s when party conventions had exclusive control over legislative nominations. Thus, in a sense, the era ended much as it had begun. But either way, whether nominated by primary or by convention, candidates became lawmakers most commonly only after they established themselves with the local party machine.

Running for the General Assembly

Candidates for state representative or state senator almost always received less attention during campaigns than those running for more prestigious offices. In every election would-be lawmakers took a back seat to the district nominees for the United States House. When a United States Senate seat was at stake, the General Assembly candidate was even more overshadowed. Before direct election of senators in 1914, those seeking a seat in Indianapolis were personally courted by those seeking a seat in Washington; but on the hustings an incumbent United States senator always proved the more stellar attraction. After 1914, when men like James E. Watson and Samuel M. Ralston sought the people's favor directly, state House and Senate aspirants became even more secondary in importance. In presidential election years, when Indiana also elected a governor, the top of the ticket got the feature billing, lesser candidates occasional mention

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[18] *House Journal*, 1929, pp. 112, 591-92, 843, 860, 869; *Senate Journal*, 1929, pp. 1027-29.
[19] Indianapolis *Times*, March 12, 13, 1929; Indianapolis *Star*, March 13, 1929.

as supporting cast. Although there were some rare local exceptions, in most general elections those who ran for the legislature appeared as mere appendages in a process dominated by what the parties and the people perceived as more important offices. The campaigns of Thomas B. Springer, Republican candidate for a House seat from Sullivan County in 1906 and 1908, illustrate the point.

Springer was nearly seventy years old with no previous experience in public office when nominated at the county convention in June, 1906. Springer's Democratic opponent, Merom pharmacist John Parker, "was half his age." Liquor control and law and order were the dominant issues in the off-year campaign between the two. In October the candidates met on three successive Friday evenings in joint appearances organized by the Sullivan Law and Order League, "a masculine counterpart of the Woman's Christian Temperance Union (WCTU)." This league supported Springer, especially after the Sullivan *Democrat* asserted that ". . . Indiana has about the worst liquor laws of any state in the union." For his part, Parker opposed the league's involvement in politics: "I am unable to see any connection between my political race and the object of the Law and Order League." On the eve of the election, the Republican Sullivan *Union* published a photograph of Springer, "a man of unvarnished character, a law-abiding citizen and God-fearing gentleman." In the absence of the excitement generated by a presidential or gubernatorial campaign, both Sullivan newspapers focused on the legislative race. The *Democrat* reported the result: "The County ticket is elected with pluralities ranging as high as 600 with the exception of John J. Parker, candidate for state representative, and John S. Dudley for sheriff who were defeated by Captain Thomas B. Springer and Marion F. Walters by fair pluralities."

By contrast, in 1908 Springer engaged in "a rather desultory campaign" for reelection against John L. Durham, a physician.

Neither the Sullivan Daily Times, the voice of the Democrats, nor the Sullivan Union, the voice of the Republicans, had much to say about issues at the local level; instead, they publicized the races between William A. Cullop and John C. Chaney for Congressman; between Thomas R. Marshall (Democrat) and James E. Watson (Republican) for governor; and between William Jennings Bryan (Democrat) and William H. Taft (Republican) for President.

Democrats elected eleven of thirteen congressmen and swept the state and legislative elections in 1908. In Sullivan County, Durham defeated Springer by more than 1,200 votes after a campaign in which neither candidate could generate publicity or popular interest.[20]

A House race in Marion County in 1902 illustrates another point about running for the legislature: the value of a well-known name. Booth Tarkington filed for the legislature in the March primaries when Republican friends persuaded him that he could not lose in a political campaign because his literary reputation

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[20] See documented addendum to questionnaire prepared by Helen L. Springer, granddaughter of Thomas B. Springer, in Springer file, Centennial History of the Indiana General Assembly, Archives Division, Commission on Public Records, Indiana State Library, Indianapolis.

gave him name recognition. Tarkington had already published *The Gentleman from Indiana* (1899) and *Monsieur Beaucaire* (1900) and had been serialized in *Harper's Magazine*. His friends proved correct as the author polled nearly 11,000 votes to lead nineteen Republican candidates seeking Marion County's seven House seats. Tarkington's run in the general election then became a classic case of lackadaisical campaigning. He left town immediately after the primary, got married in June, and spent most of the time before November 4 traveling with his bride. As late as October 20 the press reported that Mr. and Mrs. Tarkington were vacationing at Lake Maxinkuckee where they had been "for several weeks."[21] The candidate returned to Indianapolis one week before the election and told a reporter "I would as soon be sent to jail . . . as to have to make a speech."[22] After pressure from the county committee, however, Tarkington agreed to take to the hustings.

He made five brief appearances and four briefer speeches during the following week. His maiden effort on the evening of October 24 lasted two minutes before a capacity crowd at an engine house. He told the audience he was reminded of the bad actor who played Hamlet and was then dared to take a curtain call. "They dared me to make a speech, and I am here." He then admonished that all citizens should vote and sat down. Tarkington gave a repeat performance at another engine house that lasted only one minute and twenty-two seconds. The press reported the fire bell rang just as the candidate finished, probably much to his relief.[23] The next day Tarkington attended but did not speak at a rally where United States Senator Mark Hanna of Ohio urged the reelection of Charles W. Fairbanks. On October 27 Tarkington was again on the stump, addressing a group of blacks on the banks of the canal before crossing town by automobile to speak at a gathering where Congressman Jesse Overstreet was the headline attraction. "Vote early, but not often," said the author turned candidate. "The indifferent voter is a worthless cuss."[24]

Tarkington wound up his campaign on October 31 by appearing jointly with Lew Shank, an auctioneer running for county recorder. The contrast in styles between the two was striking. The shy author could not work up the synthetic enthusiasm the occasion required while Shank slapped backs and shook hands. When his small, 10 cent cigars proved less popular than the large, cheap stogies distributed by his auctioneer friend, Tarkington admitted his cigars were little "but then he's only running for the Legislature." A farmer in the crowd thought the little cigars an asset: "He's the man we wanter [*sic*] in the Legislature . . . he's ekenomical [*sic*]." The Indianapolis *News* reported how little perturbed the author was on election day when he remained in bed until noon: "CANDIDATE TARKINGTON SLEPT PEACEFULLY WHILE THE BALLOTS

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[21] Indianapolis *News*, October 20, 1902.
[22] Indianapolis *Sentinel*, October 25, 1902.
[23] Indianapolis *News*, October 25, 1902.
[24] Indianapolis *Sentinel*, October 28, 1902.

FELL." He won in a Republican sweep with 56 per cent of the vote.[25]

While Booth Tarkington was the most famous writer to try his hand at lawmaking in Indiana during the era, he was not the only reluctant candidate. Reuben Dailey (House, 1893) was elected "after a most remarkable fight during which he refused to employ the campaign methods—not often honorable—usually resorted to by politicians." Dailey, who published the Democratic newspaper in Jeffersonville, relied on his editorial column to get his message to voters and refused to make any speeches.[26] Louis P. Erny of Logansport won a House seat in 1914 while over 1,000 miles from home: "Ran second on the ticket in our county and was in Colorado during the entire campaign." In 1922 someone in Floyd County filed the name of Herbert P. Kenney, Sr., as a candidate without his knowledge. Kenney ran a front porch campaign and was elected Democratic representative. When Joseph R. Scott won the Floyd County seat in 1928 he "was an unknown" during an "election in which Prohibition repeal was an issue, and . . . Al Smith's candidacy on the national ticket." Republican Scott opposed both repeal and Smith, although he gave no speeches to reveal these stands to voters. He "served his term . . . and disappeared from view." Edward P. Eagles (House, 1927) proved that non-campaigners could also succeed in northeastern Indiana. Eagles served his term from Noble County, "a feat he accomplished without making a speech or a campaign."[27]

Those with a natural talent for popular issues stood at the opposite extreme of reticent candidates. Such men became expert campaigners because, more frequently than not, they were almost professional office seekers. During the first quarter of the twentieth century no one in Indiana exemplified this breed better than Roscoe E. Kirkman of Richmond. He was without peer in the fine art of seeking popular favor, "an unusually gifted speaker" who became nationally known as an orator. Kirkman's accolades included praise from the Culver, Indiana, Chamber of Commerce, which noted "He did more to arouse a spirit of enthusiasm among our members than any one else we have had"; a tribute from the secretary of the Central Y.M.C.A. in Brooklyn, New York, which stated "[State] Senator Kirkman said the right thing, in the right way, at the right time"; and an admiring editorial in Washington, Pennsylvania, during World War I that described Kirkman as "first of all the typical cool-headed American, who knows how to think for himself."

A Kirkman broadside issued for his reelection campaign in 1906 described his background. He grew up a farm boy near Richmond. When he was eighteen his mother died and Kirkman became the sole support of his blind father. He taught school for five years and taught penmanship at night (TERMS, 30 LESSONS, $2.50) to pay his way through DePauw University. He was admitted to

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[25] Indianapolis *News*, November 1, 4, 1902. See also James L. Woodress, "Booth Tarkington's Political Career," *American Literature*, 26 (1954), 209-13.

[26] Dailey file, English Legislator Collection, Indiana Historical Society Library, Indianapolis.

[27] Erny, Kenney, Scott, and Eagles files, Centennial History, ISL. Erny moved to Denver permanently in 1919, after serving in World War I. Scott moved to Kingsville, Texas, in the 1930s, where he lived until his death in 1970.

the bar in 1890, and elected prosecuting attorney for the 17th circuit in 1894. After two terms, he ran for the state House of Representatives, serving at the 1901 and 1903 sessions. In 1904 he was elected to complete the Senate term of Benjamin Starr, who died. Thus Kirkman had nearly fifteen years of experience in running for public office when he sought his second term in the Senate.

Kirkman first developed his speaking prowess by offering free lectures and "Blackboard Entertainments" to attract students to his penmanship classes. He prepared his own advertisements, announcing in black, boldface type "DONT READ THIS, For if you do you will want to hear . . . R. E. KIRKMAN." By the time he ran for his first office, he was a master of spellbinding oratory. And he always personally prepared his broadsides, billboards, and speeches. In 1905 the Indianapolis *Star* described the five-foot, seven-inch speaker as "The Napoleon of the Senate, small in stature but powerful in voice." Kirkman made this the theme of his 1906 campaign. No audience was too small as he beat home the theme: reelect Kirkman, the man who preserved local option in temperance, and the man responsible for the monument in Indianapolis in memory of Oliver P. Morton, "Wayne County's most illustrious native citizen and the famous war governor of Indiana." The result was never in doubt as Kirkman, who never lost an election, swept to his second term.

After voluntarily leaving the Senate in 1911, Kirkman returned to his law practice and joined the Redpath Chautauqua Circuit as a lecturer. During World War I he served as head of the speaker's bureau of the United States Emergency Fleet Corporation. In this capacity he traveled the length and breadth of the United States on behalf of the American war effort. During all this time he was still identified as "Senator Kirkman," a title he retained after the war when he became a law professor at the Indiana Law School in Indianapolis. In 1926 he was named United States attorney for the office of prohibition enforcement, Chicago division. Kirkman was stricken while prosecuting a case in Wisconsin and died in Indianapolis in 1930.[28]

Some candidates decided to run because they supported or opposed particular issues. Adam R. Ebert, a German-born Lutheran, published the Hammond *Deutsche Volks-Zeitung* when he ran as a Democrat for his one term in 1890. Ebert sought office "chiefly for the protection of parochial schools, and against local option." According to the Democratic platform in Clay County in 1890 the two most important issues were fixed salaries for public officials and a more equitable tax on property. James T. Moss supported the party platform and won. Thomas Van Buskirk and Andrew Humphreys arranged a joint canvass in 1892 in Greene County and Republican Van Buskirk won by making the Democratic apportionment act of 1891 the main issue.[29] Harold R. Donnell, a Republican from North Vernon, first thought about running for joint representative from Jennings and Decatur counties in 1926 when an army friend ran for the General Assembly

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[28] See broadsides, billboards, advertisements, news clippings, and questionnaires in Kirkman file, *ibid.*

[29] Ebert, Moss, and Van Buskirk files, Legislator, IHSL.

from Vanderburgh County. Donnell told his father something should be done because oleomargarine was hurting the price of butter and beauty parlors were affecting barbers. His father told him to go see the county chairmen in North Vernon and Greensburg because those were "good" issues. Donnell was discouraged by both chairmen because there was an incumbent and Donnell had no previous party work. He ran anyway, won the May primary, and was elected in November.[30]

Andrew Jackson Lopp, who served in the House as a Democrat from Harrison County at the sessions of 1901 and 1903, ran on no particular issue for the General Assembly. But he had a unique formula for winning public office. According to his niece, when Lopp was a candidate for township trustee, he ran sometimes as a Democrat, other times as a Republican. "I guess you would say he was an Independent," she stated. "I do not believe he ever lost an election."[31] George A. Rentschler (House, 1907-1911) borrowed a page from candidates who ran during the pioneer period when he "promoted voting by offering a drink of whiskey." Fulton County Democrats elected Rentschler to three terms. In 1926 Senator Thomas A. Daily of Indianapolis relied on an old-fashioned broadside for reelection. The single sheet, printed on only one side with his picture, spelled out Daily's virtues: appointed by Governor Hanly to the state Board of Pardons, by Governors Ralston and Goodrich as a trustee of the state reformatory, and by Governor McCray as a member of the commission to relocate the reformatory. "All of these appointments came to him unsolicited," the broadside concluded. Despite his accomplishments, Daily was defeated in the Republican primary.[32]

Volney T. Trimble (House, 1891), an Orange County farmer, accomplished "something very rare" when he "went through the campaign . . . without spending a copper cent."[33] The expense of running for the legislature, however, discouraged some. For example, Dr. Robert B. Short (House, 1901) "decided that his ambition for a public career [had] been satisfied" because he could not afford another close campaign in La Porte County and the time lost from his patients. Dr. Short neither ran for nor held another office.[34] Otho H. Williams (House, 1903), on the other hand, thought it cheap to run in Henry County. "He was nominated with a less expenditure of money than that of any candidate heretofore in a primary election for the position. His total expense was, he says, $78."[35] Williams' first cousin, George W. Williams, found the cost had risen when he sought the

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[30] Donnell oral history interview, 2nd ms., 72-80, Indiana Division, ISL. Donnell did not explain whether he was for or against beauty parlors.

[31] Lopp file, Centennial History, ISL. Lopp served fifteen years as a Heth Township trustee, his tenure extending both before and after his legislative service.

[32] Rentschler and Daily files, *ibid.*

[33] Trimble file, Legislator, IHSL. On the first day of the session Trimble, a Democrat, introduced a resolution to prohibit "smoking, swearing or vulgar language" in the House. The resolution failed.

[34] *Illustrated Indiana Weekly*, March 2, 1901; Short file, Centennial History, ISL.

[35] New Castle *Tribune*, April 4, 1902.

same seat in 1910. While making a speech in Sulphur Springs a man in the crowd yelled "We're going to elect you, Williams." Quick came the response: "If Jefferson township goes for me . . . I'll give you all an oyster supper." Williams carried the township by eleven votes and figured it would take 100 gallons of oysters costing nearly $100 to satisfy the appetites of Sulphur Springs residents.[36]

Thomas W. Force, a conservative Republican farmer from Martin County, financed his campaign and his expenses while serving through a unique arrangement with his brother, Seth. The Force brothers agreed while both were farm laborers in the early 1870s to pool all of their assets and debts. They had many hard years but by 1904 the partnership fund was worth $30,000. Both had married and raised children while their families continued to put all earnings in the fund and take out only what each needed. This "TRUST OF BROTHERLY LOVE" made Thomas Force's financial burden less than that of most other lawmakers at the 1905 session.[37]

Rowland H. Jackson (Senate, 1915-1917) left a detailed accounting of the costs of running for office that also indicated the diverse ways candidates traveled. According to Jackson's sworn Statement of Expenses dated November 10, 1914, he received and spent $50 from the Democratic committees of Ripley and Jefferson counties, and another $5 from the Democratic committee of Switzerland County. Jackson's transportation expenses included $8 to rent a horse and buggy, $1.80 for railroad fare, $7.90 to hire automobiles, 50 cents for boat fare from Madison to Vevay, and $4.50 for hotel bills, "name of proprietor forgotten." Jackson also paid $5.25 for advertising and postage.[38]

In many campaigns financial help and endorsements poured forth from bipartisan pressure groups. Such contributors included the Woman's Christian Temperance Union and the Anti-Saloon League, which extended help to temperance advocates in both parties, and farm organizations, which contributed money and manpower to elect people who supported their views. For example, in 1889 Isaac W. Beauchamp was the first man in Vigo County to take the pledge of the Farmers' Mutual Benefit Association. The following year Beauchamp secured nomination for the House by the Democratic party with FMBA support. He won election in a campaign described by a friend as "one of the hardest fought political contests in the history of the state."[39] The Ku Klux Klan proved to be the most successful pressure group of the 1920s. The Reverend George S. Henninger, pastor of the East Tenth Street Methodist Church in Indianapolis, headed the Klan Political Action Committee in Marion County. An endorsement meeting in the community room of Henninger's church, held for candidates for the Indianapolis City Council in 1925, illustrated Klan methods. Office seekers gathered on the stage and listened as Henninger read a list of questions. One

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[36] Greenfield *Republican*, November 17, 1910.

[37] Indianapolis *News*, January 28, 1905.

[38] Jackson file, Centennial History, ISL.

[39] Beauchamp file, Legislator, IHSL.

of the key queries was, if elected, would they see that a majority of patronage jobs went to Klan members. The candidates signified their acceptance by raising their right hands. Anyone who did not so signify was opposed by the Klan for election.[40]

A new element was added to running for the General Assembly in 1920 when women became eligible to serve following ratification of the Nineteenth Amendment to the United States Constitution. On April 2 of that year, Myrtle G. Meara of Hammond filed a petition to be placed on the May primary ballot as a Democratic candidate for state representative from Lake County. On April 7 the state attorney general advised the secretary of state that he had no authority to certify the name of a woman as a candidate. Thus no women ran in the May primaries. But after the General Assembly ratified the suffrage amendment at a special session in July, seven women were subsequently certified and ran in the general election. In Lake County, the Democrats became the first major party to nominate women for the General Assembly when they named Meara for the House and Margaret M. Turner to run against James J. Nejdl for the Senate. The Democrats also nominated Anna Tapp Knepple as a candidate for the House in Howard County. In addition, the Socialist party nominated a woman, Effie M. Blue, to run for the Senate in Marion County and Ruby M. Wilhelm, Anna Duffy, and Anna Allman were nominated by minor parties for House seats from Elkhart, Vanderburgh, and Lake-Porter counties respectively. All seven were defeated in November.[41]

Nine women, all Republicans, served in the House during the 1920s, one each in 1921 and 1923, two each in 1925 and 1927, and three at the session of 1929. Ironically, the first woman known to run for a seat never served, and the first woman to serve never ran. Ruth H. Burket of Evansville was nominated by the Socialist party for a seat in the House from Vanderburgh County in 1916. Although it would be four years before any woman could vote for Burket, she received 725 votes.[42] Julia D. Nelson of Muncie, the first woman to serve, was elected because an incumbent, Joseph C. McKinley, died three days before the election. Her name was hurriedly pasted over McKinley's on the ballots and put on the voting machines. Nelson was selected because she had long been active in the suffrage movement and chaired the Delaware County Republican Women's Club during the 1920 campaign. She won in the Harding landslide and did not seek a second term in 1922.[43]

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[40] John L. Niblack, *The Life and Times of a Hoosier Judge* (n.p., 1973), 233, 242; Henninger testimony, Marion County Grand Jury Investigation of Alleged Political Corruption, September 2, 1927, pp. 336-39, in D. C. Stephenson Papers, Box 7, IHSL. Reverend Henninger earned $20 in 1925 when he offered the opening prayer for the House on March 5 and 6. *House Journal*, 1925, pp. 774, 808.

[41] Indiana *Year Book*, 1920, *passim*. Thirty-six women ran for the General Assembly in the 1920s. Ten Democrats were defeated; nine Republicans won and one Republican lost; ten Socialists were defeated, as were six minor party candidates. *Ibid.*, 1920, 1922, 1924, 1926, 1928.

[42] Evansville *Courier*, November 10, 1916.

[43] Muncie *Evening Press*, October 30, 1920; Nelson file, Centennial History, ISL.

Elizabeth Rainey became the first woman to run and win in 1922. A legal secretary by profession, she had no previous political experience although she had long been active in the Business and Professional Women's Club, the Credit Union movement, and the Indianapolis Chamber of Commerce. She was the only one of the nine who never married, and the only one not self-described as a homemaker. Antoinette C. Hagenwald (1925), Clara A. Mason (1927), and Bertha A. Zimmerman (1929) were all from Terre Haute. Hagenwald and Zimmerman were nominated after years of service in Republican women's clubs on the local and state level, while Mason had been a leader in the Terre Haute chapter of the Woman's Christian Temperance Union. Zimmerman was the only one to seek a second consecutive term; she lost for reelection in 1930. Elizabeth H. Daugherty of Wabash (1925) was the only one other than Rainey with no previous political experience. Ella V. Gardner of Indianapolis (1927) won nomination after serving in the local Republican Women's Club and chapter of the WCTU. Zeola Hershey Misener (1929) was nominated after becoming a leader in the La Porte chapter of the League of Women Voters. Lettie M. Ferguson of Fort Wayne (1929) was the most politically active and remained so after legislative service. She was a precinct vice-chairwoman from 1922 until her nomination in 1928. In the 1930s she served as a precinct chairwoman and as Allen County Republican vice-chairwoman.[44]

Contested Elections

Five lawmakers were seated between 1890 and 1930 after they successfully contested the election of an opponent.[45] Another fourteen contests were settled in favor of contestees who were already seated. Of the nineteen contests, eight were in the Senate and eleven in the House. Seventeen occurred before 1910, followed by one contest in the Senate in 1919 and one in the House in 1929. The total contrasted sharply with the thirty-five contests that marked the sessions between 1855 and 1889. Those earlier contests, with only one exception, were decided on the basis of bald partisanship, twenty-four of them during years of bitter division over a United States Senate seat (1855, 1857, 1887), Civil War policy (1863, 1869), or state apportionment (1871). Party politics played a considerably lesser role after 1890. Indeed, eleven of the nineteen contests were decided in favor of a minority contestant (nine Democrats were seated by Republican majorities, two Republicans by Democratic majorities). The steadily decreasing number of contested seats and the steadily increasing tendency to

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[44] Rainey, Daugherty, Hagenwald, Gardner, Mason, Ferguson, Misener, and Zimmerman files, Centennial History, ISL.

[45] In 1897 Republican Senator Uriah Culbert unseated George W. Rogers and Republican Representative James M. Cockrum unseated David D. Hart; in 1901 Democrat Stephen B. Fleming unseated Democrat William C. Ryan in the Senate and Republican Representative Arthur L. Cooper unseated Abraham W. Skidmore; in 1903 Republican Representative William J. Hamilton unseated Peter Schloot. *Senate Journal*, 1897, pp. 328-30, 354-56, 1187-88; *ibid.*, 1901, pp. 4, 47, 133-36; *House Journal*, 1897, pp. 360-65, 816; *ibid.*, 1901, pp. 53, 229-32; *ibid.*, 1903, pp. 67, 452-53, 1307-8.

settle them on a nonpartisan basis was one sign of less intense partisanship during the era.

A unique contest arose in 1901 when three Democrats claimed two Senate seats from Allen County. The case grew out of the 1897 apportionment act that did not clearly distinguish which seat was for a two year term and which for a four year term. In 1899 George V. Kell and William C. Ryan were seated after each was elected in 1898. In 1900 Kell ran again and Stephen B. Fleming ran for Ryan's seat after Ryan refused to run. Kell and Fleming both won and at the subsequent session Ryan claimed he was a holdover and thus Fleming was not entitled to a seat. For his part, Kell refused to be sworn again lest he compromise the position of either of his fellow Democrats. On January 21, the Republican-dominated elections committee reported that Kell was the holdover. The full Senate then unseated Ryan in favor of Fleming.[46] The Ryan-Fleming contest was the only one in the history of the General Assembly where contestor and contestee both belonged to the same political party.

The other contests of the era revolved around usually perfunctory charges of voting irregularities. They included two cases where Republicans seated veteran Democratic senators. Thus, in 1907, E. Volney Bingham of South Bend was seated despite a 37 to 13 Republican majority and in 1919 Joseph M. Cravens of Madison was seated despite a 34 to 16 Republican edge.[47] In 1909, when Democrats controlled the House by a 60 to 40 margin, Republican Edward W. Wickey of East Chicago succeeded against a challenge by Democrat Edward Simon. Simon charged Wickey had won because of massive voting by unregistered aliens. The House elections committee found considerable evidence of naturalization procedure irregularities by the Lake County Republican organization. Many foreigners were told they were voting for a superintendent of factories named William H. Taft. It was impossible to determine how many foreigners obtained naturalization papers by fraud or misrepresentation, however, and the committee concluded that Simon was unable to show enough illegal votes to overcome Wickey's 1,341 vote margin.[48]

Speakers of the House

Organization of the respective houses took first priority after legislators arrived in Indianapolis for a session. The speaker of the House remained the most important officer to be chosen and an analysis of the rules of the House since 1816 coupled with the actual practice of speakers as reflected in the House *Journals* proved why. At every session the speaker determined what bills would be considered, and in what order; he controlled committee appointments and designated chairmen; he determined who would be recognized; and his was the final authority to apply parliamentary law or interpret the rules. Abundant evidence of the speaker's absolute power may be found in letters and corre-

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[46] *Senate Journal*, 1901, pp. 4, 47, 133-36; Indianapolis *News*, January 11, 21, 1901.

[47] *Senate Journal*, 1907, pp. 1357-58, 2214-16; *ibid.*, 1919, pp. 6-7, 428.

[48] *House Journal*, 1909, pp. 921-39.

spondence preserved at the Indiana State Library and in newspaper attacks on speakers for being "tyrannical" or "capricious" in the disposition of bills. Newspaper editors accused speakers variously of "destroying" Republican institutions or "thwarting" the will of the people because of the power of the office. John A. Lapp, the legislative reference librarian, stated conclusively that in 1912 the speaker's power was as great as ever:

> . . . when a bill is reported back from the committee he [the speaker] may hand it down at once or hold it indefinitely. He may hand it down when his opponents are not looking for it and when his friends are alert. He may simply "pigeonhole" it and there is no power to compel him to produce it.[49]

The speaker's life and death power over bills was not seriously challenged within the General Assembly at any session between 1891 and 1929. In fact, when Eugene Ford, a lobbyist for the dairy industry, criticized the speaker in 1925 for killing a bill the House unanimously passed two resolutions. The first exonerated Speaker Harry G. Leslie from any charges of unfairness in his rulings and the second called on Leslie to bring Ford to the bar of the House to be dealt with as the House determined. Ford appeared and apologized, and the matter was dropped.[50]

The election of a speaker always ratified the caucus choice of the party in power, with the winner selected behind closed doors by secret ballot on the evening before the General Assembly convened. The campaign began as soon as the November election results were known and every man who became speaker actively sought the post. Personal contact before lawmakers arrived in Indianapolis for the caucus was essential to success. A campaign manager who lobbied colleagues and did the wheeling and dealing also helped. In addition, most speakers enjoyed the support of their county and district chairmen as well as that of the state organization. Many who lacked such support ran anyway, usually to gain bargaining power for committee assignments and a division of the spoils. In most instances the caucus confirmed a choice already made; only in 1891, 1911, and 1923 through 1927 were there real contests. At all other sessions the caucus elected either by acclamation or by a lopsided vote.

The election in 1891 was hotly contested between Mason J. Niblack of Vincennes and James B. Curtis of Indianapolis. Niblack won 45 to 28 on the second ballot because of his "pull on the old members and the influence of the heads of the State institutions . . . ."[51] Niblack, who had been elected in 1889, thereby became the first speaker under the second Constitution to serve twice in the post. The other contests of the 1890s were decided between the first Sunday in January when lawmakers-elect arrived at the capital and the Wednesday night caucus. During those years, as the Indianapolis *Journal* noted in 1893, "the question of appearance of success figures largely . . . in determining votes" since

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[49] John A. Lapp, "Actual State Legislation," *Annals of the American Academy of Political and Social Science*, 43 (1912), 58.

[50] *House Journal*, 1925, pp. 304-5, 310.

[51] Indianapolis *Journal*, January 5, 7, 8, 1891, quotation, January 8.

members wanted to be on the winning side for good committee assignments.[52] When the caucus chose Henry C. Pettit by acclamation in 1897 it gave the House its only father-son combination in the post. Henry's father, John U. Pettit, had been speaker in 1865. Samuel R. Artman defeated James F. Stutesman in 1901 in a race marked by intense politicking, buttonholing of representatives by the candidates' respective managers, rumors, head counts, more rumors, and the withdrawal of Stutesman on Wednesday afternoon so that Artman was selected by acclamation.[53]

During the era of Democratic ascendancy from 1909 to 1915, only one speaker's election was contested in the caucus. In 1911, Albert J. Veneman of Evansville required two ballots to defeat three rivals. Veneman won, said the press, because he was supported by Thomas Taggart and his organization.[54] In the Democratic years of 1911, 1913, and 1915, the Republican caucus named Jesse E. Eschbach of Kosciusko County as its choice. Eschbach, who had eyed the speakership since arriving in the House at the 1907 session, was chosen without discussion or opposition in 1917 with a Republican majority restored. He won the post again in 1919.[55] Harry G. Leslie's victory by a margin of 42 to 39 over candidates supported by competing factions of the Ku Klux Klan in 1925 was the most bitterly contested race of the era.[56] Leslie won a second cliff-hanger in 1927 by a vote of 33 to 30 over Lemuel A. Pittenger of Muncie. Ella V. Gardner of Indianapolis was told she was no longer welcome in the Marion County caucus because she supported Leslie and refused to participate in a bloc vote for Pittenger. The capital city delegation welcomed Gardner back when Leslie appointed her chairman of the committee on the affairs of the city of Indianapolis.[57]

Thirteen Republicans and six Democrats sat as speaker, with Republicans Eschbach (1917, 1919) and Leslie (1925, 1927) presiding at two sessions each. Seventeen of the nineteen speakers were born in Indiana, fourteen of them in the district they represented. Four came from Marion County (1893, 1895, 1899, and 1913); the other fifteen came from fifteen different counties evenly distributed geographically around the state. Lawyers continued to dominate as fourteen of the speakers were practicing attorneys. Henry W. Marshall, Sr., (1903) and Raymond C. Morgan (1923) claimed they were farmers, although each derived his principal income from other pursuits: Marshall was a newspaper publisher, Morgan a banker. The other three were businessmen, including Homer L. Cook (1913), an educator who operated a teacher placement agency. Eleven speakers were Freemasons (three Democrats, eight Republicans); two of the Democratic speakers (Thomas M. Honan and Albert J. Veneman) were Roman Catholics. (See Appendix A, Table 1.)

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[52] *Ibid.*, January 2, 1893.

[53] *Ibid.*, January 5, 6, 7, 1897, January 7, 8, 9, 10, 11, 1901.

[54] Indianapolis *Star*, January 5, 1911.

[55] *Ibid.*, January 9, 1913, January 7, 1915, January 4, 1917, January 8, 1919.

[56] See above, p. 318.

[57] Indianapolis *Star*, January 1, 5, 6, 7, 9, 10, 1927.

Jesse E. Eschbach and James M. Knapp (1929) enjoyed long careers in the House. Eschbach served continuously from 1907 through the special session of 1920. Knapp's career spanned the years from 1919 to 1945 and was interrupted only by his defeat in the Democratic landslide of 1932. Knapp's thirteen sessions during a twenty-eight year period was one of the longest tenures in the history of the House. Most of the other speakers during the era had short legislative careers. Eight served only twice and were elected speaker at their second session. Albert J. Veneman and John F. McClure (1921) were elected at the only session they served. Veneman was Evansville city attorney four years before advancing to the House. From 1912 to 1919 he was Vanderburgh County attorney, and from 1933 to 1943 served as Evansville probate court judge. McClure, at age sixty-eight the oldest man elected speaker during the era, capped a long career in public service with his election to the House. Earlier he had served Anderson on the city council and as mayor; he also served twelve years as a circuit court judge, and was a member of the state Railroad Commission and state Public Service Commission.

James M. Knapp was the only speaker of the era to stand for reelection to the legislature immediately after his speakership. Charles H. Bedwell (1915) and Raymond C. Morgan (1923) returned to the General Assembly twenty years later (Bedwell to the Senate in 1935, Morgan to the House in 1943). Thomas M. Honan (1909) was elected state attorney general in 1910; Homer L. Cook (1913) was elected secretary of state in 1914; and Harry G. Leslie was elected governor in 1928. Emmett F. Branch, who was elected lieutenant governor in 1920 and became governor in 1924 upon the resignation of Warren T. McCray, was the only other speaker to advance to higher state office. No speaker between 1891 and 1929 was elected to Congress or held any national office.

Most speakers of the era were gregarious, outgoing individuals with a natural talent for political camaraderie. Samuel R. Artman of Lebanon, "a strict teetotaler," was the exception. Cold, aloof, a man who "really does not possess the successful politician's power of insinuating himself into the good will of strangers," Artman ruled from the chair sternly. By 1901 the custom had developed to honor prominent members on both sides by calling them to preside as speaker *pro tempore*. Artman's three immediate predecessors followed this practice often. Artman, however, allowed no one to preside temporarily lest he "run the risk of permitting some contemplated schemes to get through . . . in his absence from the chair." As a result Artman's session was run on a strictly business basis, with an almost total absence of the amenities and high jinks that usually marked sessions.[58]

The speakership of Sydney W. Cantwell of Hartford City proved the most tragic, from a personal standpoint, in the history of the legislature. During his first session in 1903 Cantwell was stricken with a severe hemorrhage while standing in the corridor of the State House. For several weeks he "lay between life and death in the St. Vincent hospital at Indianapolis." By 1904 he had recovered

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[58] *Illustrated Indiana Weekly*, February 16, 1901.

sufficiently to run successfully for reelection and "was honored by his fellow members by being chosen speaker . . ." in 1905. Day after day, and even during the night, Cantwell labored over his work "although scarcely able to stand . . . ." Many times he was compelled to turn his gavel over to a fellow member while he rested in his office. Cantwell's determination and dedication "caused a general breakdown . . . and when the legislature adjourned he was a physical and nervous wreck." He was bedridden at Hartford City from the end of the session until his death on October 28, 1905, at the age of forty-six.[59]

John F. McClure of Anderson also died a few months after his speakership ended. McClure was stricken with diabetes and suffered heart failure on November 20, 1921, only three weeks before a special session was scheduled. Governor Warren T. McCray appointed the lieutenant governor, four senators, and five representatives to represent the General Assembly at McClure's funeral. When the special session met for one day on December 14 to relocate the state reformatory, Claude A. Smith of Princeton was elected to replace McClure. Smith's term of twenty-four hours was the shortest speakership in the history of the General Assembly.[60]

Homer L. Cook of Indianapolis, speaker in 1913, was Marion County superintendent of schools from 1903 to 1907. He wrote a succinct autobiographical sketch on the questionnaire for the Indiana State Library at the 1911 session:

> Reared on a farm near city. Worked my way through school by teaching in Winter and going to school during Spring and Summer. Have been urged several times to run for office of State Superintendent of Public Instruction but prefer to build up the Teachers Agency Business and help raise the standard of school work, especially in Indiana. Am delighted with this work and expect it to be my life work.

Cook, a graduate of the normal school at Terre Haute, formed his placement agency in 1907 and ran it until his death in 1934.[61]

Raymond C. Morgan, a "dirt farmer and bank director" from Knightstown, won a heated race in 1923. Morgan needed twenty-six votes to defeat Asa J. Smith of Indianapolis, Jay Glenn Harris of Gary, and Lemuel Pittenger of Muncie. He advanced from seventeen votes on the first ballot to twenty-four on the third before his rivals withdrew so he could be unanimously endorsed on the fourth ballot. Immediately after his victory Morgan was escorted to the governor's office for an informal reception. The reaction of the press in Henry County showed the importance attached to the speakership in a man's home area. The New Castle *Daily Courier* said it was the first time the honor had ever come to the county and no one living could recall when it had come to the district. "Ray Morgan is home-spun," said the newspaper, which predicted he would be "the safest, wisest and fairest presiding officer that the House has had in many a year." Morgan would succeed because he was "calm, cool,

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[59] Hartford City *Gazette*, October 28, 1905; Cantwell file, Centennial History, ISL.

[60] McClure and Smith files, *ibid.*

[61] Cook file, *ibid.*

collected and calculating," a man who at all times would control himself and the body over which he presided.

Morgan proved to be one of the most capable speakers of the era and became especially noted for keeping House committees on track. As early as January 23 he advised all chairmen to "oil the machinery and dispose of the bills which had been referred to them." Otherwise, the speaker warned, a flood of bills at the end of the session would clog the legislative machinery. Within two days forty-one bills were acted on: twenty were killed, seventeen recommended for passage, and four returned to the House with divided reports. Judiciary committee A "set a new record when it slaughtered fifteen bills . . . in a little more than two hours." Among those recommended for indefinite postponement were bills to establish a state billiards commission and to abolish the office of state fire marshal.

Once while Morgan was presiding he absent-mindedly wiped his brow with a napkin that had Hotel Severin emblazoned on it in red letters. "I must have taken this thing by mistake," Morgan blushed. The manager of the hotel assured the speaker that there was no harm done. "It is our aim to please our guests," said Fred Shireman. Pleasing guests, in his view, meant that the speaker of the Indiana House could use napkins, table covers, sheets, pillow cases, even curtains for a handkerchief if he so wished. At session's end, Speaker Morgan summarized in one sentence how to succeed as speaker: "The principal qualifications for the position . . . are a voice of sufficient strength to shout the other fellow down and the knowledge that one's sufferings can't last longer than sixty days." The Knightstown *Banner* felt there was no telling where Morgan's "big brogans" would lead the city's favorite son. "The governor's chair would just about fit him."

Morgan served on the Henry County Council from 1913 to 1921, and from 1926 to 1941. The closest he got to higher office was in 1932, when he visited President Herbert Hoover at the White House. The two were classmates at Stanford University in 1891-1892. In 1943 Morgan returned to the Indiana House, serving until he was defeated by Philip H. Willkie in the Republican primary of May, 1948. Willkie paid tribute to Morgan after the election as "one of the best speakers the state House of Representatives has had." For his part, Morgan said "Age must always eventually bow to youth." He congratulated Willkie on his victory and trusted the younger man had "many useful years ahead of him in governmental capacity."[62]

Senate Leadership

The Constitution of 1851 made the lieutenant governor the presiding officer of the Senate and allowed him, during deliberations of the committee of the whole, to join in debate and vote on all subjects, and to give the casting vote whenever the Senate was equally divided. As the office had developed, however,

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[62] See assorted speeches, notes, and newspaper clippings in Richard M. Morgan (comp.), *The Writings of Raymond Charles Morgan, 1868-1953* (Florence, Ala., 1982), 46-60.

the lieutenant governor's only real function was to preside. When his party controlled the Senate, he also had some voice in committee assignments. If he were from a different party than the majority, he had no voice in committee assignments and was denied his constitutional power to preside. Democrat Frank J. Hall was the only lieutenant governor of the period who had to deal with a Senate controlled by the opposition. He conceded his powerlessness "with the membership I see before me . . ." in his 1909 inaugural address: "I do not feel . . . that it is my province to make any effort looking forward specially to the enactment of any laws, but [I] will be constantly by your side, ready to divide my information with you . . . ."[63] President *pro tempore* William R. Wood, with a 27 to 23 Republican advantage, exercised the power of presiding officer at the 1909 session. With few exceptions, the other lieutenant governors presided but rarely spoke except at the beginning or ending of sessions. Most of them, since they were of the same party as the Senate majority, also had some say in committee assignments.[64] (See Appendix A, Table 2.)

F. Harold Van Orman, Sr., who owned and operated a chain of hotels in Indiana and surrounding states, strengthened the role of the lieutenant governor as presiding officer of the Senate more than most previous occupants of the office. Van Orman served one term as senator (1921-1923) before his election as lieutenant governor in 1924. He controlled debates and unruly senators through the sheer force of his personality. Contemporaries remembered him for his trick of hurling the gavel twenty feet into the air, then catching it neatly to call the session to order. Once in 1925, after introducing the minister for opening prayer, Van Orman intoned sternly "Pray, Parson! And earn your $10.00." On opening day in 1929 a strong wind blew through the chamber from a huge window broken during a windstorm. When a freshman senator complained about the cold, Van Orman retorted "That's all right, buster. We'll warm you up pretty soon." Old Senate hands, who thought a freshman should not be heard from the first day, were delighted.

During his term as lieutenant governor Van Orman shared the task of naming committee chairmen with President *pro tempore* James J. Nejdl. Indeed, in 1925 it was Van Orman who named Nejdl chairman of the education committee in order to thwart the influence of the Ku Klux Klan. Van Orman was also credited in 1925 with initiating the legislation to purchase the Lanier Mansion in Madison, to build a memorial to Nancy Hanks Lincoln, and to purchase the land for Pokagon State Park. In 1927, on Van Orman's initiative, the legislature passed the first codification of the state's conservation laws. Under Van Orman's

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[63] *Senate Journal*, 1909, p. 87.

[64] For the record of lieutenant governors from 1891 through 1915, see "Tie-Votes in the Senate of the State of Indiana," compiled by the Indiana Bureau of Legislative Information, December, 1916, typescript in Indiana Division, ISL. This compilation includes a list of propositions on which the lieutenant governor voted in case of a tie; tables giving the number of tie votes by session; the actual tie votes on bills by session; and the character of all tie vote propositions. The tables indicate whether the lieutenant governor voted and how, the disposition of the measure as set forth in the *Journals*, and page references.

tenure the lieutenant governor's role as presiding officer of the Senate was markedly strengthened.[65]

Edgar D. Bush, who succeeded Van Orman in 1929, established a State House office for the lieutenant governor on a full-time basis. Before Bush, lieutenant governors were only given a one-room office for the sixty-one days that the General Assembly was in session. Bush appropriated two rooms in the State House year round, one for his own use and one for the use of his friends and for deliberations. Although the press complained that Bush's move would waste $9,000 each biennium because "the Lieutenant Governor has no duties when the legislature is not in session," lieutenant governors have maintained a year round office ever since.[66]

The Senate elected a president *pro tempore* on the first day at every session. The man designated for the post by the majority caucus always won and the *pro tempore*'s power over committee assignments and the disposition of bills increased steadily during the period. Frederick E. Matson and James J. Nejdl were the two who did the most to increase this officer's power. Matson was elected to the Senate from Marion County in 1900; in 1903 Republicans selected him as presiding officer even though at age thirty-three he was the youngest member of the General Assembly that year. Matson noticed during his first session that acts dealing with the incorporation of cities and towns consumed an inordinate amount of legislative time. The situation worsened in 1903 when President *pro tempore* Matson sought a general law applicable to all cities. His effort failed and Matson did not seek reelection in 1904. While in private law practice, however, Matson lobbied for a bill which accomplished his purpose and it became law as the Cities and Towns Act of 1905. On January 1, 1906, Matson left private practice to accept appointment as corporation counsel to the city of Indianapolis, a post created by the 1905 act.[67]

James J. Nejdl was the only senator to serve consecutive terms as president *pro tempore* during the era. Nejdl came to the United States as a youth from Bohemia and settled in Whiting in 1896 when he was twenty-two years old. Beginning as a bricklayer, he started his own paving and contracting business in 1904. His most constant companions during these years were a little black book, in which he wrote all the new words he heard, and a dictionary. Nejdl was elected to the Senate in 1916, after serving one term on the Whiting School Board. In Indianapolis Nejdl became known as an ardent supporter of all bills designed to increase public educational opportunities. By 1923, when elected to

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[65] Indianapolis *Star*, January 11, 1927, January 7, 1958; Indianapolis *News*, January 9, 1958; Niblack, *Life and Times of a Hoosier Judge*, 233; Van Orman file, Centennial History, ISL.

[66] Indianapolis *Times*, March 5, 1929.

[67] Harry T. Ice, *History of a Hoosier Law Firm: Ice Miller Donadio & Ryan and its Predecessors, 1910-1980* (n.p., 1980), 27-30. In 1901 there were fifteen separate acts on cities and towns. One, eighty pages in length, dealt with the incorporation of a city which by its population could only apply to South Bend. Similar acts dealt only with Indianapolis and Fort Wayne. In 1903 there were even more such acts with one for Muncie covering sixty-nine pages.

the first of three consecutive terms as president *pro tempore*, Nejdl was considered "an authority on good usage of English in the senate."[68]

Nejdl's closest race for the leadership post occurred in 1927. On the first ballot, Denver C. Harlan led Nejdl 17 to 16, with one ballot marked only "N" declared mutilated and not counted. Senator Russell B. Harrison of Indianapolis arrived before the second ballot, and Nejdl carried it by a vote of 18 to 17. In 1929 Harlan defeated Nejdl 24 to 12 and the winner named the loser chairman of the Senate rules committee because Nejdl was recognized as an authority on parliamentary procedure in the upper house.[69] This self-made immigrant, a life member of the International Bricklayers Union which he served as local president, was the most atypical Republican of all in an era dominated by native, white, Protestant Republicans. He served until losing in the Democratic landslide of 1932, and was the most effective president *pro tempore* of his era.[70]

Other Officers, Rules, and Committees

Next to speaker of the House and president *pro tempore* of the Senate, the principal secretary of the Senate, principal clerk of the House, and principal doorkeepers for each house were the most important officers. These were chosen from outside the membership by the majority caucus the evening before each General Assembly convened. They were elected on opening day and the four men named in 1901 demonstrated that dedicated work for the majority party was the chief prerequisite for selection. Senate Republicans picked William W. Huffman of Anderson as principal secretary after Huffman managed Winfield T. Durbin's gubernatorial campaign in 1900. William L. Essman was chosen as House clerk after years of service to the Marion County Republican party. Essman had moved to Detroit, Michigan, in 1900, and needed a job in 1901 because his mother's serious illness forced him to return to Indianapolis. Clamor Pelzer became principal doorkeeper in the Senate for the third consecutive session, "the only man in the history of the state whose popularity enabled him to hold that position three times." Factors that probably enhanced Pelzer's "popularity" included his terms on the Boonville School Board, the city council, and on the Warrick County Republican central committee. Pelzer's counterpart in the House, William T. Murray, was a county assessor and vice-chairman of the Fayette County Republican central committee.[71]

At the beginning of each session Indianapolis newspapers routinely criticized the number of patronage positions and the methods lawmakers used to fill them. In the 1890s the criticism was directed at an "army of door-keepers and clerks" who descended upon the capitol to get paid for doing nothing.[72] Early in the twentieth century the press coined the phrase "plunder committee" to describe

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[68] Indianapolis *Times*, March 11, 1929.

[69] Indianapolis *Star*, January 6, 1927, January 10, 1929, July 7, 1938.

[70] Nejdl file, Centennial History, ISL.

[71] Pelzer file, *ibid.*; *Illustrated Indiana Weekly*, March 9, 1901.

[72] Indianapolis *News*, November 28, 1892.

patronage dispensation in both houses. Although plunder meant "to steal, to commit robbery, or to loot," the term became commonplace with apparently neither lawmakers nor job seekers protesting the appellation. As early as 1903 the Indianapolis *Journal* told how Representative James F. Stutesman (Miami County) chaired a "plunder committee" that was besieged by some 200 applications for fifty places. The paper saw Stutesman's committee as an improvement over 1901 when an unofficial "plunder committee" consisted of four men not one of whom was a legislator.[73] Eventually patronage committees were chosen by the same caucuses that selected the speaker or the president *pro tempore*. In 1907 the press recounted how "Plunder Chairman" Charles C. Schreeder of Evansville called his committee to order in a room at the Claypool Hotel immediately after Emmett F. Branch was selected as speaker. Schreeder announced that there would be a job for every member of the caucus to dispense, although some might have to settle for thirty-day places.[74] The problem of too many applicants for too few jobs was a recurring one. In 1929 there were so many job seekers that "favored friends of legislators" were rotated after fifteen days in order to satisfy as many as possible.[75]

While both houses had patronage committees by at least 1903, the Senate was the first to admit it officially with a legislative expense committee in 1915. The Senate changed the name to "committee on employment of assistants and incurring indebtedness" in 1919, the same year that the House added a legislative patronage committee to its list of standing committees.[76] The committees functioned under these names at every session through 1929. With or without formal patronage committees, however, the number of principal officers, assistants, and employees increased steadily. The Senate listed four principal officers in 1891: the lieutenant governor, a principal secretary and an assistant secretary, and a doorkeeper. The list had grown to twenty-nine by 1919, with the president *pro tempore* included along with various clerks, stenographers, and assistants. By 1929 the *Senate Journal* devoted ten pages to listing hundreds of employees.[77] There was similar growth in the House where ten principal officers were listed in 1891. This number grew to seventeen principal officers (plus the speaker) by 1929, plus two assistant officers, thirty-five stenographers and typists, thirty-six assistant doorkeepers, and four janitors.[78]

These extra jobs increased legislative costs. The most basic cost was the per diem plus mileage paid to lawmakers. The rate for both remained fixed between 1877 and 1925 at $6 per day plus $5 weekly for each twenty-five miles traveled to and from Indianapolis. In 1925 the legislature increased the per diem

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[73] Indianapolis *Journal*, January 6, 7, 8, 9, 10, 1903.

[74] Indianapolis *News*, January 10, 1907.

[75] Indianapolis *Times*, January 11, 1929. For other accounts regarding the "plunder committee" in the 1920s, see Indianapolis *Star*, January 9, 1925, January 11, 1929.

[76] *Senate Journal*, 1915, p. 63; *ibid.*, 1919, p. 827; *House Journal*, 1919, p. 887.

[77] *Senate Journal*, 1891, pp. 1267-68, appendix, 4; *ibid.*, 1919, pp. 824-25; *ibid.*, 1929, pp. 1060-61, 1065-75.

[78] *House Journal*, 1891, pp. 1503-4, appendix, 4; *ibid.*, 1929, pp. 922-25.

to $10. Except for 1933, when the per diem was lowered to $9.15 as an economy measure, legislative pay remained at the 1925 level until 1947. Meantime, the costs of sessions averaged about $104,000 per session from 1891 to 1929, with between $60,000 and $65,000 expended on mileage and per diem of members, and $30,000 to $35,000 expended on employees. The lowest cost for a session during the era was $82,785.76 in 1921; the highest $152,122.81 in 1929. The costs of miscellaneous employees at each session, nearly constant since the 1870s, reached almost $54,000 by 1929. Ten years later, in 1939, the cost of session-time employees exceeded $70,000 for the first time; in 1949 these costs first exceeded $200,000.[79]

The rules governing the two houses between 1891 and 1929 remained basically unchanged from the late 1880s. The number of standing committees grew in each, however, and the names of others were altered to reflect changing times. The House in 1891 had the same forty-two standing committees that it had in 1889. By 1919, judiciary had split into judiciary A and judiciary B; the committee on temperance had changed to the committee on public morals; canals had changed into rivers and waters; and the committee on apportionment had split into congressional apportionment and legislative apportionment. The twelve committees added by 1919 included building and loan associations, telephones and telegraphs, public libraries, public buildings, state parks, and ministers. The Senate in 1891 had the same thirty-five standing committees that it had in 1889. By 1919 the Senate also had split judiciary into A and B; temperance was changed to public morals; banks had become banks, trust companies, and savings associations; and cities had changed to cities and towns. Committees added by 1919 in the Senate included criminal code, reformatories, telegraphs and telephones, natural resources, public libraries, and public rights and franchises. By 1929 there were fifty-eight standing committees in the House and forty-nine in the Senate. Both houses had added committees on roads and on the state library. In addition, the Senate had committees on constitutional revision and on finance while the House committees included cities of the second class, state medicine and public health, and statistics of immigration.[80]

Committee procedures between 1891 and 1929 were best described by legislative reference librarian John A. Lapp in 1912. According to Lapp, every bill except emergency measures and those considered under suspension of the rules was referred to a committee. Usually the committee was the one having the general subject of the bill in charge, but the leadership in each house could refer

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[79] For costs by session, see Indiana Legislative Reference Bureau, "Appropriations and Expenditures of the Legislatures of Indiana from 1816 to 1917," Indianapolis, 1917, typescript in Indiana Division, ISL; Indiana Legislative Bureau, "The Indiana General Assembly," Indianapolis, 1954-1967, pp. 48-52, typescript, *ibid.* For per diem, see *Laws*, 1875 (s.s.), 52; *ibid.*, 1881, p. 517; *ibid.*, 1925, pp. 284-85; *ibid.*, 1927, p. 5. The 1925 law repealed the 1881 law but did not become effective until January 1, 1929. Hence the necessity for the 1927 per diem law, which applied only to the 1927 session.

[80] *House Journal*, 1891, pp. 138-41; *ibid.*, 1919, pp. 883-87; *ibid.*, 1929, pp. 936-42; *Senate Journal*, 1891, pp. 75-77; *ibid.*, 1919, pp. 827-30; *ibid.*, 1929, pp. 1084-87.

bills to committees having no connection with the subject. Once in the hands of a committee, a bill could be arbitrarily held or reported according to the committee's wishes. While in theory each house could demand that a bill be reported to it, in practice it was held by the committee at pleasure. The chairman might refuse to call his committee together or refuse to submit a bill for the members to consider. Often he was appointed chairman for that specific purpose. Or, the chairman might lose the copy of the bill which was the only official copy and thus delay it until a new one was introduced. The process might then be repeated. In theory, a committee considering a bill in essence sat in judgment on it in the light of arguments presented. In practice, hearings on important bills assumed the nature of a partisan trial, with the majority members playing the role of prosecutor, judge, and jury. Committee hearings had no regulated procedure. They frequently were called without adequate notice and no one but lobbyists knew the time and place in advance. Minutes were not kept. The proceedings were not generally reported and only meager information was given as to who appeared and what was said. The votes of members were not recorded and there was no public notice of how they voted except as they filed dissents or openly expressed their views.[81]

The Laws: Number, Origins, and the Role of the Legislative Reference Bureau

The General Assembly enacted 4,645 laws during the twenty sessions between 1891 and 1929. The Democratic legislature of 1913 produced the greatest volume for a single session with 360 enactments while the 1895 Republican legislature, meeting under a Democratic governor, produced the fewest with 156. The Democratic party averaged 243 laws per session during the five sessions it controlled both the legislative and executive branches; the Republican party enjoyed the same circumstance at fourteen sessions and averaged 232 laws per session. In 1909, the only session where the parties split control of the two houses, 189 bills became law.[82] Despite this volume, less than 25 per cent of the bills introduced actually entered the statute books. For example, 506 bills were introduced in the House and 422 in the Senate at the 1923 session, but only 193 became law. The Indianapolis *Star* criticized "THE DELUGE OF LEGISLATION," saying "Many good measures are lost in the final scramble and occasionally vicious legislation slips through."[83]

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[81] Lapp, "Actual State Legislation," *Annals of the American Academy of Political and Social Science*, 43:54-56.

[82] The twenty sessions also passed ninety-two joint resolutions and fifty-nine concurrent resolutions. See Indiana Legislative Bureau, "The Passage and Taking Effect of Acts and Joint Resolutions in Indiana Under the Constitutions of 1816 and 1851," Indianapolis, 1935, typescript in Indiana Division, ISL. Seventy-nine of the 4,645 acts were declared unconstitutional by the state Supreme Court. See Oliver P. Field, "Unconstitutional Legislation in Indiana," *Indiana Law Journal*, 17 (1941), 101-27.

[83] Indianapolis *Star*, March 11, 1923. According to this newspaper 245 bills actually passed

Bills originated in diverse ways. First, the legislators themselves were anxious to make a record because many people judged careers by the number and title of bills bearing a lawmaker's name. Second, constituents always demanded certain things for themselves or for the public good, and their bills were presented as a matter of courtesy. Third, fraternal and professional organizations, reform associations, and charitable or philanthropic societies lobbied constantly for pet projects. Fourth, many bills originated with private interests and corporations that hired professional lobbyists to seek either privileges or ratification of privileges already obtained. State administrative officers who tried to formulate effective measures for their own departments constituted a fifth source of legislation. Sixth, committees or commissions appointed under the authority of the legislature to conduct investigations into specific subjects and report their conclusions in definite form to the legislature played an increasingly active role after 1907.[84]

The great majority of lawmakers served only one term and were of average intelligence and experience. Most were successful in a business or professional sense in their local communities but were otherwise unknown. Very few were elected with a statewide vision, free from narrow provincialism. Since 1816 lawyers and farmers had predominated, followed by business and professional men. The exigencies of politics, however, ensured that at practically every session nearly every class of citizen having an interest in legislation would be represented. But the average legislator lacked the knowledge, qualifications, and time to deal carefully with the complexities of making law in a modern, increasingly urbanized society. Constantly changing membership and the absence of a permanent staff to serve lawmakers between sessions caused an instability and a lack of continuity that were serious weaknesses as the nineteenth century ended. This led to increasing awareness that legislative deficiencies might be remedied best by the employment of experts who would be servants of legislators and who would ground them with an historical and legal framework. Such experts would perform none of the legitimate legislative functions, but would do the detail work and leave lawmakers free to do the larger work of formulating and determining general policies. The Indiana General Assembly first acted to employ such experts in 1907 with the establishment of a legislative reference department in the State Library.[85]

The law appropriated $4,000 for the state librarian to hire a staff to help legislators prepare and formulate bills. On October 1, 1908, John A. Lapp began work as the Indiana legislative reference librarian at an annual salary of $1,500. He was, by training and background, the personification of the new breed of legislative expert brought to the fore by the Progressive Movement. Lapp was

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both houses, but the governor vetoed some, pocket vetoed others, and some did not have the signatures of the presiding officers and could not be submitted. Legislative overproduction was a frequent theme of press criticism throughout the era. For other examples, see *ibid.*, January 22, 1925, February 9, 1927.

[84] Lapp, "Actual State Legislation," *Annals of the American Academy of Political and Social Science*, 43:53-54.

[85] *Laws*, 1907, pp. 236-37.

trained by Charles McCarthy of the Wisconsin Legislative Reference Bureau in 1906-1907 while completing a master's degree in political science at the University of Wisconsin at Madison. He then served as an assistant for the Legislative Voters League of Chicago during the 1907 session of the Illinois General Assembly. After coming to Indiana he helped found the Special Libraries Association in 1909 and became best known for a bill which he drafted that passed at the 1913 session. Lapp's bill, which became a model for similar laws in other states, mandated the teaching of agricultural, domestic, and industrial courses in grade and high schools and established full-time vocational schools with part-time evening classes throughout Indiana.[86]

The Democratic legislature of 1913 was so pleased that it replaced the reference department with a full-time Bureau of Legislative Information with Lapp as director. According to the new law, the bureau would be under the control of a board consisting of the governor, the state librarian, the presidents of Indiana University and Purdue University, and a fifth person appointed by the governor. During the next four years Lapp and his staff drafted bills for legislators and published a series of bulletins with such titles as "Legislative Bill Drafting" (December, 1914) and "Control and Supervision of State Institutions" (March, 1916). Thus the bureau's initial work coincided with and seemed to complement the Indiana Historical Commission's effort for the state centennial celebration. In the minds of many observers the works of the bureau and the commission became indistinguishable. Republicans especially saw both as adjuncts of Governor Samuel M. Ralston and the Democratic party. When the Republican legislature of 1917 abolished the commission, therefore, it did not hesitate to add a destructive sentence regarding the bureau: "The bureau of legislative information is hereby abolished from and after October 1, 1917."[87]

With his job legislated out of existence, Lapp accepted a position in 1918 with the Ohio General Assembly as director of investigations for the state Health and Old Age Insurance Commission. In the 1920s he became chairman of the Department of Sociology at Marquette University and director of the Social Action Department of the National Catholic Welfare Council. During the New Deal era, Lapp became a federal arbitrator in labor disputes and gained national recognition for his books on grievance procedures. Lapp died in 1960, shortly after the fiftieth anniversary meeting of the Special Libraries Association which he helped found while reference librarian for the Indiana General Assembly in 1909.[88]

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[86] *Ibid.*, 1913, pp. 37-46. See also Clifton J. Phillips, *Indiana in Transition: The Emergence of an Industrial Commonwealth, 1880-1920* (Indianapolis, 1968), 398.

[87] *Laws*, 1913, pp. 694-96; *ibid.*, 1917, p. 200. Republicans also opposed the bureau because under Lapp it had assisted Democratic efforts in 1911 and 1913 to legislate a new state constitution. For a list of bulletins published by the bureau, see Arthur Connors, *The Trend of Legislation for Public Health* (Fort Wayne, Ind., 1916), inside front cover.

[88] For Lapp's career, see Irene M. Strieby, "In Memoriam: Dr. John A. Lapp, 1880-1960," *Special Libraries*, 52 (1961), 152.

Between the adjournment of the 1917 session and the convening of the 1919 session, the United States entered and won World War I. The upsurge of patriotism in Indiana during that conflict convinced Governor James P. Goodrich and the Republican party of the value of a state historical commission. The myriad problems that the postwar era posed further convinced Republican legislators of the value of a permanent legislative reference staff. The first such staff had, after all, been sanctioned by the 1907 Republican General Assembly. Thus, when Governor Goodrich proposed a permanent Indiana Historical Commission in 1919, the legislature not only acquiesced but went a step farther and also created a permanent Legislative Reference Bureau. The act of 1919 established a non-partisan agency under the control of a board consisting of the state librarian and the presidents of Indiana University and Purdue University. Twelve thousand dollars were appropriated to hire a staff of experts whose sole function would be to aid lawmakers year round.[89]

Charles Kettleborough was named director of the revived agency. Kettleborough had been born in Lincolnshire, England, and his family moved to Topeka, LaGrange County, Indiana, when Kettleborough was an infant. He was educated in the common schools of LaGrange County before entering Indiana University where he earned a B.A. degree in 1907. He received his Ph.D. in political science from Indiana University in 1916 after preparing a dissertation on "Constitution Making in Indiana." In 1911 he joined the legislative reference department as Lapp's assistant. In addition to his legislative reference duties Kettleborough also worked on his dissertation which was published as an epochal two volume study of the evolution of the state Constitution from 1816 to 1916. These books, the first volumes in the Indiana Historical Collections, were published by the Indiana Historical Commission to help commemorate the statehood centennial. They established Kettleborough as the foremost expert on the legislative process in the state. He continued this work after being named director of the Legislative Reference Bureau and in 1930 he published a third volume on the state Constitution since 1916.[90] Under Kettleborough's direction the bureau also published the annual *Year Book of the State of Indiana* and the annual *Statistical Report for the State of Indiana.*

Kettleborough did not make his major contribution, however, as a scholar of the state's constitution-making process. Rather, this quiet and studious man was remembered best for his unobtrusive and efficient direction of the Legislative Reference Bureau from 1919 to 1938. During these years he gained "the confidence and the respect of Republicans and Democrats, Radicals and Conservatives, New Dealers and Old Dealers. He worked just as faithfully to frame the bills of one as of the other."[91] He drafted an estimated 75 per cent of the laws enacted by the Indiana General Assembly from 1921 to 1937, and authored an inestimable

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[89] *Laws*, 1919, pp. 82-85.

[90] For Kettleborough's background, *Indiana History Bulletin*, 16 (1939), 34-35. For the correct date of his Ph.D. degree, see *Indiana University Bulletin*, Vol. 15, No. 10 (1917), 253.

[91] Indianapolis *Star*, March 29, 1938.

number of bills for legislators of all persuasions. At the close of each session, he edited the official acts and completed criss-cross reference forms. Between sessions he directed the compilation of numerous legal surveys and specialized studies on the legislative process. When he died after being struck by an automobile in downtown Indianapolis in 1938, the Indianapolis *Star* noted editorially that:

> No one can even estimate how much trouble and confusion he prevented in his quiet way during and between sessions of the General Assembly. He was a walking encyclopedia of information to whom lawmakers, public officials in general and the public at large appealed. His judgment and technical knowledge of legislation and of governmental functions made him all but invaluable.

Democratic Governor M. Clifford Townsend said it best: "Few people have served their government so loyally and efficiently as he did."[92] Charles Kettleborough, more than any other single individual, helped professionalize the legislative process for the state of Indiana. Since the day he became director of the Legislative Reference Bureau in 1919, lawmakers, regardless of party, were assured that their bills would be legally drawn with precautions taken that they would stand tests of constitutionality.

The Laws: Revenue and Appropriations

Throughout the nineteenth century most of the revenue in Indiana was derived from taxes on real and personal property. Hence, Indiana came to be known as a general property tax state. The chief sources of revenue, aside from the general property tax, were poll taxes levied on males between the ages of twenty-one and fifty, taxes levied on the premiums of insurance companies, and a tax on corporate stock. The General Assembly of 1891 passed a bill to revise and modernize tax law under which state government continued to rely primarily on the property tax for most of its revenue until at least 1915. The legislation abolished the state Board of Equalization, which dated from 1872, replacing it with a permanent body of two gubernatorial appointees plus three state officers to be called the state Board of Tax Commissioners. In addition to the powers exercised by the old board, the new one had the power to assess railroad property. The measure brought a sudden and dramatic rise in the valuation of railroads for tax purposes and the property tax base increased 47 per cent in 1891. Further, under this act the total property tax revenue available to local and state government reached $21.7 million in 1899.[93]

The tax reform act of 1891 was bitterly opposed by the railroad lobby and did not pass until after a conference committee reconciled differences between

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[92] *Ibid.*

[93] For an overview of tax policy from the territorial period until 1930, see Donald W. Kiefer, *Indiana Public Finance, Past and Present: Report of the Commission on State Tax and Financing Policy* (Indianapolis, 1974), 6-20. Annual amounts derived from the property tax are listed in Indiana Legislative Reference Bureau, "Population, Total Net Assessed Valuation, Taxes Charged for All Purposes and Per Capita Tax in Indiana For the Years 1849 to 1931 inclusive," typescript in Indiana Division, ISL.

the two houses shortly before the session ended.[94] Once the tax bill was out of the way in 1891, the legislature moved on to its biennial appropriations bill. In the 1890s these bills always passed near the end of the session as the last order of important business. The route of the 1895 appropriations bill through the two houses and its provisions were typical. The act passed the House, was amended in the Senate, and then the House refused to concur in the Senate amendments. The leadership then named a conference committee composed of two members from each house. The Senate received and voted to accept the committee report on Saturday, March 9; the House followed suit on Monday afternoon, March 11, the last day of the session. The act authorized the spending of almost $2 million from November 1, 1895, to October 31, 1897. General fund appropriations included money for executive and administrative agencies, the courts, state bureaus and boards, benevolent institutions, correctional facilities, and colleges. The general fund also included miscellaneous appropriations for such things as public printing and a livestock sanitary commission. The act concluded with three pages of specific appropriations to pay individual claims that included bills from a paving company, a stone company, and the American Flag Manufacturing Company.[95]

State spending more than doubled and local government spending quadrupled between the turn of the century and 1930. As a result, the total property tax revenue was nearly seven times higher in 1930 than in 1900. Since valuation did not grow rapidly enough to keep pace with this spending growth, the General Assembly increased the property tax rates at practically every session. A statewide average of $1.64 per $100 of assessed valuation in 1900 grew to an average of $2.91 per $100 of assessed valuation by 1929 despite the fact that the property tax no longer generated most of the revenue for state government. In 1913 the legislature passed an inheritance tax, followed in subsequent sessions by a gasoline tax, a vessel tonnage tax, and a host of charges and fees assessed against corporations, utilities, banks, and oil companies. The legislature also imposed license and title fees on motor vehicles, and special fees for hunting and fishing licenses. By the late 1920s biennial expenditures totaled nearly $50 million and the property tax produced less than 25 per cent of state revenue. The remainder came from the gasoline tax (30 per cent) and various other taxes and fees.[96]

Bills that increased the property tax rate or appropriated funds were usually the most hotly contested acts at each session from 1901 to 1917. Appropriation bills remained the last order of major business before adjournment *sine die* and

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[94] *House Journal*, 1891, pp. 864-973, 978, 979-81, 1032, 1045-46, 1161-62; *Senate Journal*, 1891, pp. 835, 856-57, 939; *Laws*, 1891, pp. 199-291; Indianapolis *News*, February 23, 1891.

[95] *House Journal*, 1895, pp. 795, 1146-57, 1515, 1579-80; *Senate Journal*, 1895, pp. 1018-24, 1044-48; *Laws*, 1895, pp. 304-18. For other examples of appropriations bills passing as the last major order of business, see Indianapolis *News*, March 6, 1893, March 8, 1897. In 1893 the bill passed on Saturday, March 4, and the *News* noted that as a result the last day, March 6, was "free and easy." In 1897 the appropriations bill passed in the afternoon of the last day, enabling the General Assembly—in the words of the *News*—to wind up its affairs "decently and in order."

[96] Kiefer, *Indiana Public Finance*, 15-20.

frequently did not pass before the last minutes on the last day. In 1909 an appropriations donnybrook was avoided only because both houses stopped the clock at 11:59 p.m. on March 8 in order to finish their work within the specified sixty-one days. Democrats controlled the House and Republicans the Senate, and each had different ideas on how to spend $8.1 million. The differences were not reconciled until nearly 2 a.m. on March 9 when both accepted a conference committee's recommendations and wrapped up their work.[97]

After the establishment of the legislative reference department in 1907, appropriation bills became more complex and were more professionally drawn than previously. By 1915 state spending had increased to the point where the legislature mandated an annual outlay of $3.3 million from the general fund and over $500,000 annually in specific appropriations. Institutions added to the general fund since 1895 included the Southeastern Hospital for the Insane at Madison, the Village for Epileptics at New Castle, the Tuberculosis Hospital at Rockville, and the Girls' School at Clermont. New agencies included a state veterinarian's office and a fire marshal's office; new boards included a board of accounts, of agriculture, of forestry, of pardons, and of medical registration and examination. The appropriations for 1915 also included funds for the maintenance of the Soldiers' and Sailors' Monument, the Tippecanoe Battle Ground, and the Nancy Hanks Lincoln Burial Ground.[98]

The General Assembly passed its last major revision of tax laws during the era in 1919 with an act that redrafted the duties and powers of the state Board of Tax Commissioners. Under the new law the board could review and approve or deny any property tax rate above $1.50 per $100 of assessed valuation and any impending bond issue of $5,000 or more by any local government. Further, the board was given original jurisdiction in assessing railroads, pipelines, telephone and telegraph lines, public utilities, and financial institutions. The board was also given the power to equalize assessments, but the law was somewhat ambiguous as to the extent of this power.[99] When the board ordered horizontal increases in the assessed value of taxable property in townships for the purpose of equalization, the action was challenged. In 1920 the state Supreme Court declared the board could adjust assessments of entire counties, but not individual townships. The resulting confusion led to a special session of the General Assembly that convened on July 12, 1920. The powers of the tax commissioners were clarified by laws passed at this session that allowed increases in the costs of local government. Thirty-two of the fifty-nine new laws authorized townships, cities, towns, or counties to issue bonds or appropriate funds for such things as neglected children, war memorials, or schools.[100]

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[97] *House Journal*, 1909, pp. 1489-92; *Senate Journal*, 1909, pp. 1781-83; Indianapolis *News*, March 9, 1909.

[98] *Laws*, 1915, pp. 338-57, 512-22; Indianapolis *Star*, February 23, 1915.

[99] *Laws*, 1919, pp. 198-374.

[100] *Fesler et al.* v. *Bosson et al.*, 189 Ind. 484; *Laws*, 1920 (s.s.), *passim.*; Kiefer, *Indiana Public Finance*, 18, 20.

An act passed in 1921 stipulated that the chief examiner of the state Board of Accounts must prepare a budget for legislative action each biennium.[101] Governor Warren T. McCray then appointed a budget advisory committee consisting of one Republican and one Democrat from each house to help in the work. The Indianapolis *Star* found the first budget drawn under the law to be "eminently satisfactory," and in 1925 the legislature replaced the advisory committee with a permanent interim budget committee. The act specified that within ten days after each November general election the governor would name two senators and two representatives evenly divided between the two political parties who, together with the state examiner, would constitute the state budget committee. This budget committee soon became the most prestigious and powerful legislative interim committee, and it remained so for nearly forty years.[102]

In 1925 the General Assembly passed the largest appropriations bill in its history up to that point. The press thought the bill unusual not because of the size of the appropriation but because the General Assembly adjourned "at the stroke of midnight" after "a turbulent debate" on the bill.[103] The act mandated spending $55 million for state government during the biennium and started with two pages of definitions regarding such terms as "personal service," "all other operating expenses," "capital outlays," "equipment," "lands, structures, and non-structural improvements," and "rotary or revolving fund appropriations." New boards and agencies added since 1915 included ones for the registration and examination of optometry, of pharmacy, of examination and registration of nurses, of professional engineers and land surveyors, of embalmers, of dental examiners, plus an Indiana Corn Growers' Association, a Co-operative Crop Reporting Service, a Live Stock Breeders' Association, and a Dairymen's Association.[104] The advisory committee that prepared the bill estimated that only about $10 million of the total came under the control of the budget process. The rest came from the gasoline tax and other sources and was spent outside of the budget process by law and could only be changed by new law. The committee estimated that its work was almost entirely devoted to requests for additional funds by state institutions and concluded that future cuts in state expenditures would be exceedingly difficult.[105]

Roads and natural resources were the two areas of greatest growth in state expenditures. The state road system had returned almost entirely to the public domain with an 1889 law that allowed counties to purchase private roads. Public interest in improved, state-financed roads was renewed around the turn of the century when the automobile first arrived upon the scene. In 1905 there were only 112 miles of private toll roads remaining in the southern part of the state when the legislature first required owners of automobiles to register their vehicles. In 1913 lawmakers added a charge for such registration with fees ranging from

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[101] *Laws*, 1921, pp. 375-82.
[102] Indianapolis *Star*, January 25, 1923; *Laws*, 1925, pp. 71-80.
[103] Indianapolis *Times*, March 10, 1925.
[104] *Laws*, 1925, pp. 512-67.
[105] Indianapolis *Star*, January 16, 1925.

$2 to $20, depending upon the horsepower of the vehicle. The major impetus to road improvement was a 1916 federal law which gave aid to states for building roads. As a result, the 1917 General Assembly provided for a state Highway Commission and a highway fund; at a special session in 1920 lawmakers approved a plan for a state road system connecting every county seat. In 1923 a 2 cents per gallon gasoline tax was dedicated to this highway fund. In 1925 the tax was raised to 3 cents per gallon, and in 1929 to 4 cents. During the 1920s the state also received about $2 million a year in federal aid for highways. By 1929, almost 37 per cent of the state budget was earmarked for highways, two and one-half times the resources devoted to any other function. The highway system consisted of 7,000 miles of roads as the era ended, over half of which were paved.[106]

Conservation programs began to grow in 1901 when the General Assembly passed several laws regulating the hunting of game animals and established a state Board of Forestry. Two years later a state forest was created to serve as a laboratory for forest conservation. In 1905 hunting licenses became mandatory and in 1915 the Indiana Flood Commission was established. In 1917, as a direct outgrowth of the state's centennial celebration, the legislature established McCormick's Creek and Turkey Run state parks. The state Department of Conservation evolved in 1919 when the legislature combined all agencies concerned with natural resources, forestry, fish and game, geology, and state parks. By 1930 the Department of Conservation controlled seven state parks and four historic sites. The latter included the original state capitol building at Corydon, which the department was in the process of restoring to its original condition.[107]

The Penal Code, Benevolent Institutions, and Education

The General Assembly took significant steps to modify the often harsh treatment of convicts that had prevailed during most of the nineteenth century and to separate juveniles from adult convicts in the criminal justice system. In 1893, after the state Board of Charities recommended a halt to indiscriminate use of corporal punishment in state prisons, the legislature amended the penal code so that only the warden or deputy warden were permitted to order such punishment. Under the new law whippings could be administered only at specified hours of the day and only in the presence of the prison physician and chaplain.[108] A law of 1899 divided the Women's Prison into separate divisions for adults and minor girls. The latter division became the Industrial School for Girls. In 1907 the name was changed to the Indiana Girls' School and the facility moved to a new building at Clermont. The General Assembly of 1903 established a separate juvenile court for minors in Marion County, the first court of its kind in the country.[109] None of these advances came without heated opposition in

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[106] Kiefer, *Indiana Public Finance*, 15-16.

[107] *Ibid.*, 17.

[108] *Laws*, 1893, pp. 269-71.

[109] *Ibid.*, 1899, p. 22; *ibid.*, 1903, pp. 524-28; *ibid.*, 1907, pp. 139, 191-92; *ibid.*, 1903, pp. 516-22. See also Phillips, *Indiana in Transition*, 488-89.

the legislature. Indeed, at the last session of the era in 1929, Senator Robert L. Moorhead of Indianapolis moved to reintroduce the whipping post. Under Moorhead's proposal wardens in state correctional institutions would have discretion to impose ten to twenty stripes "well laid on" for first offenders and up to sixty stripes for repeaters. Opponents killed the bill by amending it to read that women as well as men could be whipped by the county sheriff on the courthouse steps with the public invited as witnesses. The bill passed its second reading and was engrossed, but no further action was taken on it.[110]

Since the first General Assembly of 1816-1817, anyone convicted of a capital offense in Indiana was subject to execution by hanging. By the 1890s crimes punishable by death were limited to treason and first-degree murder. Public hangings had long since been outlawed and at almost every session proposals to abolish the death penalty were debated along with proposals to substitute death by electrocution for death by hanging. At the 1895 session Senator George H. Gifford, a Democrat from Tipton County, introduced a bill to abolish capital punishment. Gifford's bill was indefinitely postponed after Republican Charles E. Shiveley of Wayne County charged that such "sickening sentimentality against hanging red-handed murderers was instigated by long-haired men and short-haired women."[111] Sentiment against the death penalty could not be talked away easily, however, because proponents came from both political parties. In 1905 Republican Representative Gus S. Condo of Grant County saw his bill to abolish executions reported with the recommendation that it be indefinitely postponed. When Condo introduced the same bill in 1907 it was indefinitely postponed again. In 1913 a bill against capital punishment offered by Democratic Senator Bomar Traylor of Dubois County lost on third reading. A Democratic sponsored bill on the same subject passed the Senate in 1915 but the House struck out its enacting clause. In 1917 a Republican measure was defeated in the Senate while a like measure in the House was indefinitely postponed. Despite repeated bipartisan attempts to rid the statute books of capital punishment, the era ended with the death penalty still in force.[112]

An increasing number of hangings where suspects were lynched by vigilantes before benefit of trial by jury led the General Assembly to pass antilynching laws and to substitute electrocution for death by hanging in capital offenses. The first antilynching laws were enacted in 1899, with one providing a reward for the arrest and conviction of the lynchers.[113] In 1901 the House killed a Senate bill to substitute electrocution for hanging but the Democratic legislature of 1913

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[110] Indianapolis *Times*, January 17, 1929; Indianapolis *Star*, February 6, 1929.

[111] Indianapolis *News*, January 18, 1895.

[112] *House Journal*, 1905, pp. 292, 1485-86; *ibid.*, 1907, pp. 129, 217-18; *ibid.*, 1915, pp. 623-26; *ibid.*, 1917, pp. 93, 367; *Senate Journal*, 1913, pp. 844, 1812-13; *ibid.*, 1915, pp. 60, 127; *ibid.*, 1917, pp. 86, 239-41.

[113] *House Journal*, 1899, pp. 803, 1633; *Senate Journal*, 1899, pp. 838-39, 1288-89; *Laws*, 1899, pp. 132-33, 500-2.

finally enacted such a measure and execution by electrocution has prevailed in Indiana upon conviction of a capital crime since that year.[114]

Most legislation regarding benevolent institutions dealt with funding or improving existing facilities but the General Assembly did authorize some important new ones between 1891 and 1929. The plight of indigent Civil War veterans led lawmakers in 1895 to fund construction of the Indiana State Soldiers' Home at Lafayette.[115] This home has housed needy veterans of all the nation's wars since that time. The frequent incarceration of epileptics with the insane and overcrowding at Central State Hospital in Indianapolis led to two laws in 1905. The first authorized the Southeastern Hospital for the Insane at Madison. The second provided for a state Village for Epileptics at New Castle with accommodations only for men. Separate cottages for women and girls were added in 1924.[116] New special hospitals authorized during the era included one for the treatment of tuberculosis at Rockville in 1907, a children's hospital at Indianapolis in 1909, and the Robert W. Long Hospital of Indiana University, established at Indianapolis in 1911.[117] A fire that destroyed the State Prison South at Jeffersonville in 1918 led to a new reformatory in the 1920s. Governor Warren T. McCray called lawmakers into special session in December, 1921, to approve the sale of the Jeffersonville property to Colgate and Company. The session appropriated funds to purchase land for a reformatory and a site at Pendleton was chosen for the facility.[118]

The legislature depended primarily on the property tax to fund the public school system. During most of the period the tax rate for schools was 13.6 cents per $100 of valuation on property plus a 50 cent poll tax. By 1900 local school corporations could levy an additional 75 cents per $100 of valuation on property and by 1920 this had increased to $1.20 per $100 of valuation. During the era the legislature increasingly distributed funds to school corporations on the basis of equal educational opportunity statewide instead of on the basis of enrollment. Equalization of opportunity was the basis for 5.2 per cent of the distributed funds in 1905, 30 per cent by 1920, and 45 per cent by 1930.[119]

Legislative action regarding attendance, transportation of pupils, and teachers' salaries and benefits all helped increase school costs. The compulsory attendance act of 1897 required children between the ages of eight and fourteen to attend school twelve weeks a year. Subsequent enactments widened the age limits and increased the number of weeks until all persons under age sixteen

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[114] *Senate Journal*, 1901, pp. 89, 221; *ibid.*, 1913, pp. 61, 537-38; *House Journal*, 1901, pp. 995-96, 1530; *ibid.*, 1913, p. 2095; *Laws*, 1913, pp. 844-45.

[115] *Laws*, 1895, pp. 40-47.

[116] *Senate Journal*, 1905, pp. 736-41, 787-88, 1743; *House Journal*, 1905, pp. 1199-1200, 1885; *Laws*, 1905, pp. 26-31, 483-89.

[117] *Laws*, 1907, pp. 198-210; *House Journal*, 1909, pp. 349, 911, 181-82; *Laws*, 1909, pp. 48-51; Phillips, *Indiana in Transition*, 479-81.

[118] *House Journal*, 1921 (s.s.), 6-11; *Laws*, 1921 (s.s.), bound in front of *Laws*, 1923, pp. 5-12.

[119] Kiefer, *Indiana Public Finance*, 16.

were required to attend school full time.[120] A series of laws between 1899 and 1907 authorized free transportation of pupils and mandated the closing of schools with fewer than twelve students. As a result the number of one-room schools decreased from nearly 8,000 in 1900 to about 2,500 by 1930. In 1929 it cost $4.3 million to provide school transportation.[121] The first minimum wage for teachers was adopted in 1907 with annual pay graduated from $450 to $630 depending upon a teacher's experience and training. The minimum pay was raised to $1,170 a year by 1921. In 1915 the legislature created the Indiana State Teachers' Retirement Fund with a small property tax levy. The act provided a pension for those who had taught a minimum of thirty-five years in the public schools.[122]

Lawmakers kept a jealous eye on the public schools because the cost of funding education seemed to dominate the biennial debates over appropriations. Thus, when criticism of the state's educational standards became widespread in the early 1920s the General Assembly authorized a gubernatorial commission to investigate the schools and report its recommendations to the 1923 session. During debate on the resolution to establish the commission Representative David N. Curry, a Democrat and a coal miner from Sullivan County, said the state should curtail high school athletics if it wanted to raise educational standards. Republican William M. Swain supported Curry's stance in the Senate. Both men singled out high school basketball as the culprit and said the schools would not improve until the sport was abolished. Both the Curry and Swain resolutions were tabled.[123] The 1923 report was prepared by experts from out-of-state teacher training colleges. It criticized the preparation of Indiana's teachers and suggested the remedy would be expensive. A resolution in the House dismissing the findings as "biased" and "radical" was referred to the education committee with no further action taken. In the Senate a resolution offered by Democrat Noble J. Hays of Scott County blasted the report because the study was "conducted . . . by alienist [non-resident] experts who wrote their verdict before they heard the evidence." Hays' resolution was also referred to a committee with no further action taken.[124]

One educational reform generally favored by legislators after World War I would have required teachers to take loyalty oaths. The Senate passed a bill in 1921 requiring teachers in public schools to take an oath to support the constitutions of the United States and the state of Indiana and to teach reverence

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[120] *House Journal*, 1897, pp. 10, 1365; *ibid.*, 1913, pp. 1762-63; *Senate Journal*, 1897, pp. 1231-32; *ibid.*, 1913, pp. 820-22, 1651; *Laws*, 1897, pp. 248-50; *ibid.*, 1913, pp. 616-25.

[121] Kiefer, *Indiana Public Finance*, 16.

[122] *Ibid.*; *House Journal*, 1915, pp. 1276-78; *Senate Journal*, 1915, pp. 1178-79; *Laws*, 1915, pp. 658-73.

[123] Curry resolution, *House Journal*, 1921, pp. 617-18; Swain resolution, *Senate Journal*, 1921, p. 607; resolution establishing commission, *ibid.*, pp. 818-19. See also Indianapolis *Star*, March 2, 1921.

[124] *House Journal*, 1923, pp. 64-65; *Senate Journal*, 1923, p. 66.

for the flag and law and order. This bill failed to pass in the House.[125] All public school teachers and all faculty members in state institutions were required to take an oath of loyalty to Indiana and the United States by an act passed in 1929. Representative Thaddeus S. Adams, Hendricks County, introduced the bill and James H. Lowry of Indianapolis supported it because twenty-seven students "in a class in an institution not so many miles from Indianapolis" were induced by their teacher to sign a pledge that they would never fight in a war. Adams' bill, vigorously supported by the Daughters of the American Revolution, passed 89 to 1 and survived a bitter attack in the Senate by a 35 to 8 margin. Governor Harry G. Leslie signed the bill into law on Washington's birthday as a delegation from the DAR looked on approvingly.[126]

The legislature was consistently parsimonious in its support of higher education until after World War I. Separate biennial appropriations for Indiana University, Purdue University, and the State Normal School at Terre Haute were the norm at a time when each school had enrollments of less than 1,000 students each. Indiana University became the most favored in 1883 when lawmakers established a permanent endowment by voting a 1/2 cent levy on each $100 of taxable property for that purpose. In 1895 a degree of parity between the three was reached when the General Assembly levied a tax of 1/6 mill on the dollar to be apportioned with 2/5 of the total raised going to Indiana University and 3/10 each going to Purdue and the State Normal School. The legislature raised this levy to seven cents on each $100 of taxable property in 1913, with 2/5 of the proceeds earmarked for Indiana and Purdue and 1/5 for the State Normal School.[127]

Each institution faced attempts either to curtail or abolish its operation. In 1883 and 1887 the legislature refused to appropriate any funds for Purdue. The Normal School felt threatened in 1901 by a Senate bill that proposed to accept a gift from the trustees of the Eastern Indiana Normal School at Muncie to establish a second state teachers college. The proposal was killed on a point of order that the bill was a revenue bill and as such must originate in the House. The point was brought by several senators who argued that the school at Terre Haute was adequate for the needs of the state.[128] Four years later when the House appropriations bill came to the Senate on the last day of the session, Delaware County succeeded in removing all funding for normal schools. Senators then refused a conference committee's recommendation that funding be restored for the Terre Haute school. At 10:30 p.m. on March 6 the Senate demanded a new conference committee, the House refused, saying it would not be dictated to, and after an hour of acrimonious debate during which several senators condemned the House, the Senate backed down. Shortly before midnight a bill

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[125] *Senate Journal*, 1921, pp. 310, 580; *House Journal*, 1921, pp. 774-75; Indianapolis *Star*, February 23, 1921.

[126] *Ibid.*, February 15, 23, 1929; *Laws*, 1929, pp. 33-34.

[127] *Laws*, 1883, pp. 82-84; *ibid.*, 1895, pp. 171-72; *ibid.*, 1913, pp. 506-7.

[128] *Senate Journal*, 1901, pp. 400, 625, 645-54; Indianapolis *News*, February 15, 1901.

passed that included funds for the Terre Haute school.[129] The fight between Terre Haute and Muncie continued until the legislature passed a bill in 1917 allowing the state to accept property from the Ball brothers to establish the Eastern Division of the Indiana State Normal School.[130]

For its part, Indiana University received legislative support to add seven schools between 1903 and 1925 and still had to fend off biennial attacks despite such growth. A bill proposed by Senator Glenn Van Auken, a Democrat from DeKalb County, was typical. Under Van Auken's proposal the institutions at Bloomington and Lafayette would consolidate with the Bloomington campus closed as of July 1, 1916. The bill was indefinitely postponed.[131] By 1929, when the legislature separated Ball State Teachers College from Indiana State Teachers College, enrollment had reached nearly 20,000 students at the four institutions. The General Assembly appropriated almost $9 million that year for higher education. This amounted to only half of the total expenditures by the schools, however, with the rest coming from donations, endowments, fees, business activities, and other sources. Tuition for Indiana residents remained free at all four schools.[132]

The transformation of Indiana from an agricultural, predominantly rural society in 1890 to an urbanized and industrialized state by 1930 changed the legislative process from a session-time phenomenon to a year-round undertaking. When 1,500,000 people out of a total of just over 2 million lived on farms or in rural communities in the 1890s, the General Assembly found sixty-one session days and annual appropriations of about $750,000 sufficient to meet the relatively simple needs of its constituency. As population continued to shift to the cities after the turn of the century, and continued urbanization and industrialization proceeded apace, legislators found constituent needs increasingly more complex and expensive. The legislature made two major changes in its mode of operation to meet these new needs. First, lawmakers created a Legislative Reference Bureau and staffed it with experts who could help with the legislative process on a continuing basis. Second, they formed interim committees to grapple with the more complex problems between sessions. These committees would then recommend solutions for consideration at the next session. The state Budget Committee, formed in 1925 specifically to make comprehensible spending

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[129] Indianapolis *News*, March 7, 1905; *House Journal*, 1905, pp. 1615-16, 1845, 1970, 1984; *Senate Journal*, 1905, pp. 1574, 1712, 1794-95, 1816, 1817-18.

[130] *Laws*, 1917, pp. 53-55; Glenn White, *The Ball State Story: From Normal Institute to University* (Muncie, Ind., 1967), 42-43. It took months of negotiations after the act passed before the president of the Terre Haute school agreed in April, 1918, to accept the Muncie institution as a "branch" of the Indiana State Normal School.

[131] *Senate Journal*, 1915, pp. 378, 926.

[132] Kiefer, *Indiana Public Finance*, 17.

recommendations in an era of multi-million dollar annual appropriations, was the most important interim committee. Because of these changes in the legislative process, by 1930 the Indiana General Assembly stood ready structurally to meet the needs of a state in which nearly 2 million people out of a total of just over 3 million lived in cities. The need to do more and the impact of the Great Depression set the stage for the revolution in Indiana government at the 1933 session during the years of Paul V. McNutt.

Chapter 12

The Legislators

Seventeen hundred eighty-six separate individuals filled the 3,000 seats in the Indiana General Assembly between 1891 and 1929. Of these individuals, 1,299 served only in the House while 356 served only in the Senate. One hundred four others served first in the House and then moved to the Senate; fifteen men became representatives after being senators; two individuals started in the Senate, moved to the House, and then returned to the Senate. Two individuals alternated more than once between the two houses.[1]

At least 1,712 legislators during the era were born in the United States, 1,299 of them (72.7 per cent) in Indiana. The domination by native-born Hoosiers, begun in the 1880s when 51 per cent of those who served were born in Indiana, reached 64 per cent in the 1890s and 78 per cent in the 1920s. Ohio contributed the second largest number of legislators with 171. Other states that produced more than twenty Indiana lawmakers included Illinois (49), Pennsylvania (38), Kentucky (27), New York (25), and Michigan (21). Twenty were born west of the Mississippi River, including eight in Iowa, five in Missouri, three in Kansas, and one each in Minnesota, South Dakota, Texas, and California. Sixty-eight others were foreign born, including thirty-five who were born in Germany, eleven in England, and eight in Canada. Senator Henry Gers (Daviess County, 1911-1913) was born in 1845 on a German sailing vessel in Chesapeake Bay. While the birthplace of five legislators is unknown, 885 of them (50 per cent) were born in the district that they represented. Seventeen others are known to have been born somewhere in Indiana and it is known that 882 others were not natives of their district. (See Appendix A, Table 4.)

The ancestry or ethnicity is known for 996 lawmakers (56 per cent). Three hundred seventy-six of these (37.8 per cent) were of English, Scottish, or Welsh ancestry and 360 (36 per cent) were of German or Dutch descent. Indiana's lawmakers also numbered at least 125 Irishmen (12.6 per cent of those whose ethnicity is known) and seventy-eight (7.8 per cent) were of Scotch-Irish derivation. There were, in addition, a scattering of persons of French or Italian descent, four whose roots were in Eastern Europe (two Bohemians and two Poles), and two blacks who served in the 1890s.

The mean age for senators during the era was 48.2 years, with the mean increasing from 47 years in the 1890s to 50 years in the 1920s. For representatives

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[1] All statistics and tables in this chapter are based upon quantification of the data in *A Biographical Directory of the Indiana General Assembly* (2 vols., Indianapolis, 1980, 1984), Vol. 1, *1816-1899*, Vol. 2, *1901-1984*.

the mean age rose from 46 years in the 1890s to 48.8 years in the 1920s.[2] Senator John Yaryan of Wayne County had the distinction of being the oldest person ever to serve. Yaryan began his legislative career as a Whig in the House during the 1840s. He served in the Senate during the 1850s and in the House again during the 1870s as a Republican. Yaryan was elected to the Senate in 1890 and was eighty-nine years old when he completed his term at the 1893 session. Born November 27, 1803, Yaryan died January 27, 1894, exactly two months after his ninetieth birthday. Robert B. Shirley, a Democrat and a farmer from Allen County, was the second oldest senator of the era. Born October 24, 1842, Shirley was eighty-two years old at the 1925 session.[3] Frank W. Cregor (1899, Rush County) and Robert E. Proctor (1909, Elkhart County) each served in the Senate at the minimum age of twenty-five years set by the Constitution. Cregor, born July 13, 1873, was the younger of the two by five months (Proctor celebrated his twenty-sixth birthday February 15, 1909, during the session).

Alexander M. Scott was eighty years old when he represented Marion County at the 1917 session, the oldest member of the House during the era. Scott was

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[2] Two representatives who served in 1923 illustrate the difficulty of determining birth data for some legislators. Murdo (Max) C. Murray was elected in 1922 from LaGrange County to the first of six terms in the House. At each session Murray responded to the biographical questionnaire circulated by the Indiana State Library. In the spaces for date and place of birth, Murray wrote as follows:

(1923) "Scotland, May 9/74"
(1925) "Scotland. May 19th. 1873"
(1939) "Lairg Scotland June 19th 1884"
(1941) "(Inverness) Scotland May 20 1876"
(1943) "Sutherlandshire, Scotland June 1st 1877"
(1945) "Lairg. Scotland"

Murray was born June 22, 1871, in Gruid's Lairg, Sutherland Shire, Scotland, according to the death certificate issued by the Indiana State Board of Health. Elizabeth Rainey of Indianapolis was the other difficult case from 1923. She wrote only "Russellville, Ill-" in the space for date and place of birth. When a reporter for the Indianapolis *Star* asked her straight out "How old are you, Miss Rainey?" she replied: "You have my picture, let them guess." Rainey was born April 24, 1871, according to the death certificate issued by the Indiana State Board of Health. See Murray and Rainey files, Centennial History of the Indiana General Assembly, Archives Division, Commission on Public Records, Indiana State Library, Indianapolis; Indianapolis *Star*, January 5, 1923. By attempting to conceal her age, Miss Rainey set a precedent followed by a few others. One representative who served in the early 1940s claimed that she was born in 1891 on one occasion and in 1895 on another. A great-granddaughter, recalling that "Grandma always fudged on her age," provided a birth certificate showing February 28, 1881, as the correct date. A representative who served in the mid-1960s wrote "refuse inf.—not especially applicable" on the biographical questionnaire she returned in 1982 to the author. While a member of the legislature, however, she had given her date and year of birth to the State Library.

[3] Reginald H. Sullivan, who represented Marion County in the Senate at the sessions of 1911 and 1913 was the longest-lived legislator of the era and probably the longest-lived in the history of the General Assembly. He was a great-grandson of Jeremiah Sullivan, the lawmaker and jurist famous during the pioneer period. Reginald Sullivan was best known as the Democrat who served two terms as mayor of Indianapolis during the Depression of the 1930s and during World War II. He died January 30, 1980, just six weeks short of his 104th birthday. See Yaryan, Shirley, and Sullivan files, Centennial History, ISL.

born March 23, 1836, and first served in the House from Montgomery County at the 1877 session. He moved to Indianapolis in 1906 after a successful career as a merchant and banker in Ladoga.[4] Four men served as representatives at the age of twenty-two. Frederick C. Muller (1901, Vanderburgh County) was the youngest as he did not turn twenty-three until four months after the session ended. Hubert Hickam (1915, Owen County) turned twenty-three five weeks after the session ended; Donald C. Rulo (1921, Allen County) turned twenty-three one week after the session ended; and Adolph F. Decker (1903, Vanderburgh County) celebrated his twenty-third birthday during the session on January 30, 1903.[5]

During an era when Democrats were outnumbered nearly three to two in both houses, Joseph M. Cravens of Madison became "so strongly entrenched . . . with the people along the Ohio that it doesn't matter what kind of year it is—he will win on the Democratic ticket." Cravens represented Jefferson County in either the House or the Senate at twelve of the fourteen sessions between 1903 and 1929 to become the closest thing to a career legislator during the era. His tenure included six terms in the House and three consecutive terms in the Senate where he served throughout the 1920s as minority floor leader. In 1923 the Indianapolis *Star* summarized Cravens' popular appeal in these words: "In some legislative directories this veteran of the Assembly is listed as a capitalist; in others as a farmer, but to the people of southern Indiana, he is a statesman." Cravens' total of twenty-four years service was the longest tenure of any legislator during the period.[6]

Almost three out of every four senators during the era served one term or less (365 individuals served only one term while another thirty-four served but one year). That meant that less than 20 per cent (eighty-nine senators) served more than one term. Of these, fifty-seven served two full terms, thirteen completed three full terms, and just two completed four full terms. William R. Wood of Lafayette, who served at all nine sessions between 1897 and 1913, had the longest tenure in the Senate for the period. He served twice as president *pro tempore* (in 1901 and 1909) and twice as minority floor leader (in 1911 and 1913). In 1914 Wood was elected to the first of nine consecutive terms in the United States House of Representatives. Jay Glenn Harris, a lawyer from Gary, and Oliver P. Lafuze, a Union County farmer, each served seven consecutive sessions in the House beginning in 1917. They thus enjoyed, along with Jesse E. Eschbach,

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[4] Scott file, *ibid.* Thomas N. White (1893, Henry County), George Nichol (1905, Madison County), and Thaddeus S. Adams (1929, Hendricks County) were each seventy-five years old when they served in the House.

[5] None of these four held any other political office. Muller moved to Oklahoma in 1920 and became a successful oil man and realtor; Decker practiced law in Evansville for the rest of his life; and Rulo became a public relations specialist for the Nash-Kelvinator Corporation in Fort Wayne. Hickam, as a founding partner of the prestigious Barnes, Hickam, Pantzer, and Boyd law firm in Indianapolis and as the author of two definitive studies of preparing for trial in civil actions, became the most famous of the four. See Muller, Decker, Rulo, and Hickam files, *ibid.*

[6] Cravens file, *ibid.*; quotations, Indianapolis *Star*, January 22, 1923.

the longest tenure among the 1,429 individuals who served as representatives during the period. Eight hundred seventy-five representatives (61.2 per cent of the total) served only one term; another 407 representatives (28.5 per cent of the total) served two terms, and ninety-three representatives (6.5 per cent) served three terms. (See Appendix A, Tables 5-6.)

Indiana's tradition of a citizen legislature composed of people who worked full time at making a living while devoting sixty-one days to lawmaking every two years continued during the era. The occupation while serving is known for all but one lawmaker. Lawyers replaced farmers as the dominant group in terms of primary occupation; 533 individuals (29.8 per cent) practiced law while serving in the legislature, as opposed to 449 individuals (25.1 per cent) who farmed. Since 104 others engaged in farming as a secondary occupation and twenty others practiced law as a secondary occupation, however, there were exactly 553 lawmakers during the era known to be lawyers and also 553 known to be farmers. At least 127 lawmakers were merchants or store owners and another 106 were businessmen (including forty manufacturers and twenty-one building contractors). There were also 103 bankers-financiers, eighty-nine physicians, and eighty who were engaged in either insurance or realty.[7] Sixty-six lawmakers during the era were printers, newspaper editors, or publishers. There were also forty-two school teachers or administrators, eighteen clergymen, and nine college professors. At least fifty-two laborers served, a total that included construction workers, factory employees, coal miners, and railroadmen. Five of the lawmakers were college students while serving in Indianapolis. (See Appendix A, Table 7.)

Although the number of legislators who had served in the military declined to just 16 per cent, military service remained an asset for those who ran for public office. Two hundred eighty-four lawmakers of the era saw active service in at least one of the nation's wars between 1846 and 1945, including 161 Civil War veterans, twenty-nine who fought in the Spanish-American War, and seventy-nine who served during World War I.[8] (See Appendix A, Table 8.) Almost without exception, legislators with military experience belonged to veterans' organizations. The most popular such organization during the era was the Grand Army of the Republic. After World War I, however, the GAR gave way to the American Legion. The latter was located in Indianapolis in 1920 and, according to Harold Feightner of the Indianapolis *News*, it became an outlet for young veterans who found their political way blocked in the two major parties. The

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[7] Forty-nine were engaged in banking as a primary occupation while another fifty-four combined banking with another profession; most legislators who were insurance agents also sold real estate. The insurance men-realtors included twenty-seven who sold insurance for a primary occupation and thirty-one who did so as a secondary occupation. Another forty-three lawmakers derived their main income from real estate while thirty-seven others derived a secondary income from real estate.

[8] The greatest number of Civil War veterans served in the 1890s. A few, however, served in the twentieth century, including Senator Thompson R. Brady (1911), who marched with Sherman to the sea, and Representatives James E. Southard and John H. C. Hoffman who, in 1921, were the last such veterans to serve. Brady, Southard, and Hoffman files, Centennial History, ISL.

Legion in the 1920s became the seedground for those who would dominate both major parties and state politics between 1930 and 1955. Those were the same years in which the American Legion made its major impact on the Indiana General Assembly.[9]

Nearly all of Indiana's lawmakers between 1891 and 1929 had some formal education. Almost three fourths of them attended a high school, and at least 1,033 of them (58 per cent) attended a college or vocational school. The number of legislators who had some college education reached 50 per cent for the first time in the 1890s and 67 per cent by the 1920s. A majority of those who attended college (702) received their higher education in the state and, collectively, they had attended nearly every public and private college in Indiana. One hundred twenty-five lawmakers attended Indiana University; at least 102 others attended Valparaiso University; and seventy-one went to DePauw. Central Normal College at Danville and the Indiana State Normal School at Terre Haute accounted for another 106, almost all of whom taught for a while. In fact, 545 lawmakers of the era (30.5 per cent) had some teaching experience in addition to the forty-two individuals who made their living as teachers. Three hundred seventy-seven lawmakers attended a college or university out of state, including 132 lawyers, seventy-seven doctors, and a few who did graduate work after receiving undergraduate instruction in Indiana. An additional fifty lawmakers received shop or vocational training in Indiana. Forty-four others attended college, but it is not known where. (See Appendix A, Tables 9-10.)

One thousand sixty-four legislators of the era (60 per cent) held public office on the township, city, or county level, 772 of them before their election to the legislature. Three hundred thirty-six people served their political party on the local level in such capacities as precinct committeeman or county chairman and nearly two thirds of these did so prior to their election as members of the General Assembly. One hundred ninety-six served as a district judge or prosecuting attorney, 120 of them before their legislative service. Two hundred eighty-nine served in state administrative positions, such as commissioner, director of a state agency, or trustee of a state institution. The vast majority of these (211) held the state positions after serving in the legislature. One hundred fifty-five served in federal positions on the state level, such as United States marshal or tax collector. Five legislators served later as a federal judge and five served later as a state Supreme Court justice.[10] Five legislators later served Indiana as a United States senator while eighteen sat in the United States House of Representatives.[11] Harry S. New became the only Indiana lawmaker during the era

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[9] Feightner oral history interview, 61-62, Indiana Division, ISL.

[10] The five federal judges were Oscar E. Bland, Jonathan W. Crumpacker, Newton W. Gilbert, Oscar R. Luhring, and William M. Sparks; the five state Supreme Court justices were Richard K. Erwin, Willard B. Gemmill, Timothy E. Howard, Curtis G. Shake, and Benjamin M. Willoughby.

[11] The five who became United States senators were John W. Kern, Harry S. New, Arthur R. Robinson, Frederick R. Van Nuys, and Raymond E. Willis. The eighteen who served in the U.S. House included Jasper Packard, who served three terms in Congress ending in 1875, twenty-two years prior to his service as a member of the Indiana House from Floyd County at the 1897

to serve in a president's cabinet when Calvin Coolidge named him postmaster general in 1923. (See Appendix A, Table 11.)

The dominance of the Republican party during the era was shown by the fact that 1,018 Republicans (57 per cent) were elected to the General Assembly as opposed to 753 Democrats. Because of this dominance, Republicans controlled both houses at fourteen sessions while Democrats controlled both houses only five times (1891, 1893, 1911, 1913, and 1915). In 1909 control was split, with Democrats having a majority in the House while Republicans organized the Senate. (See Appendix A, Table 12.)

The political steadfastness of legislators was shown by the fact that 1,712 (96 per cent) never changed parties. Of those who did change, only twenty-seven switched from one major party to the other. Fourteen Democrats became Republicans, most of them because they disagreed with the Democratic party on the money question in 1896.[12] Thirteen Republicans switched to the Democratic party, most of these after the collapse of the Progressive party in 1915. Twenty-nine legislators switched from a major party to a third party, such as Populist, Progressive, or Prohibition, while sixteen switched parties more than once.

The vast majority of legislators were church members. One thousand three hundred eight of the 1,786 persons (73 per cent) are known to have professed a religious creed, eleven of them only as Protestants of an unspecified denomination.[13] The Methodists, with 419 adherents (32 per cent of those whose religion is known), continued to have the largest representation. Methodists were followed by Presbyterians (202), Disciples of Christ (193), and Baptists (113). Other denominations with sizeable representation included Roman Catholics with 93, Lutherans with 57, and Quakers with 54. The Evangelical United Brethren (47) and Episcopalians (33) were the only other denominations represented by more than twenty adherents. (See Appendix A, Table 13.)

Eight hundred seventy-one lawmakers (49 per cent) were Free and Accepted Masons as Freemasonry continued to be the most popular and influential fraternal affiliation for Indiana politicians. The number of Masons grew noticeably during each decade, increasing from 36 per cent in the 1890s to 64 per cent in the 1920s. Masonic domination was greatest in the Senate during the era, where 57 per cent of the total number who served belonged to the order including three

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session. William Henry Harrison (House, 1927) was a U.S. representative from Wyoming for five terms between 1951 and 1969. Harrison was also the only member of the Indiana General Assembly during the era who served in the legislature of another state. He served in the Wyoming House of Representatives from 1945 to 1950.

[12] William E. English of Indianapolis was the best known of these "gold Democrats" who became Republicans. He served in the Indiana House as a Democrat in 1879, as a Democratic member of the U.S. House of Representatives in 1884-85, and as a delegate to the Democratic national conventions of 1892 and 1896. When Democrats nominated William Jennings Bryan for president at the latter convention, English joined the party of William McKinley. He later served as a Taft delegate to the Republican national convention in 1912 and as a Republican state senator from 1917 to 1925. English file, Centennial History, ISL.

[13] The religious affiliation of 349 lawmakers is unknown. One hundred twenty-nine others specifically stated that they were not members of a church.

out of every four senators during the 1920s. As had been true since the two party system evolved in Indiana during the 1830s, Freemasonry was a bipartisan phenomenon; 311 Democrats (41 per cent of the total number of Democrats who served) and 553 Republicans (54 per cent of the total number of Republicans) claimed membership. (See Appendix A, Table 14.)

Harold Donnell was typical of legislators who took enormous pride in being Freemasons. He remembered wanting to join because his father thought Masonry was the best order. Being a part of the honor guard for Woodrow Wilson at the Paris Peace Conference and being a member of the General Assembly were "wonderful," Donnell recalled, but his "highest honor" was becoming Master of his lodge.[14] Prominent Freemasons who served as legislators included the order's two best known historians of the era, Daniel McDonald and William E. English. McDonald, who represented Marshall County in the House at the sessions of 1905 and 1907, published his seminal *A History of Freemasonry in Indiana from 1806 to 1898* in 1898. English published his *History of Early Indianapolis Masonry and of Center Lodge* in 1895.[15]

While Freemasonry was by far the most frequent fraternal affiliation for legislators, numerous members affiliated with other groups. Almost one fourth belonged to the Knights of Pythias and almost one half of the Roman Catholics who served belonged to the Knights of Columbus. A substantial number of legislators also joined the Elks or the Eagles and many belonged to at least one insurance benefit organization such as the Improved Order of Red Men, the Woodmen, the Travelers Protective Association, or the Tribe of Ben Hur. Civic improvement and service groups popular with a significant number included the Lions and Kiwanis clubs and chambers of commerce.

Urban versus Rural Legislators: The Contrast

The eight counties that contained Indiana's largest cities elected 489 of the 1,786 legislators who served during the era. Marion County alone, embracing the city of Indianapolis, accounted for 171 lawmakers. Allen County, which includes Fort Wayne, was second with sixty-one separate legislators. Vanderburgh County (Evansville) and Vigo County (Terre Haute) sent fifty-three legislators each to Indianapolis for sessions, followed by St. Joseph County (South Bend) with a total of forty-eight lawmakers and Madison County (Anderson) with a total of forty-one. Lake County, sparsely populated in 1890 but one of the state's largest urbanized and industrialized regions by 1930, accounted for thirty-five more. These thirty-five, most of whom lived in East Chicago, Hammond, or Gary, plus twenty-seven from Delaware County (Muncie) should be included to draw an accurate composite picture of the 489 legislators (27 per cent of the total) who represented urban Indiana at the twenty sessions. Their combined portrait shows some interesting contrasts when compared to that of the 1,296

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[14] Donnell oral history interview, 2nd ms., 61-64, Indiana Division, ISL.

[15] McDonald and English files, Centennial History, ISL.

legislators who represented the eighty-four counties comprising the rest of the state.[16]

Sixty-five per cent of the urban legislators were native-born Hoosiers but only 39 per cent were natives of their districts. This contrasted sharply with those from rural counties, 79 per cent of whom were native-born and 54 per cent of whom were natives of their districts. Seven per cent of the urban representation was foreign-born (including all legislators during the era who had been born in Eastern Europe) as compared to 2.5 per cent of the representation from the rest of the state. One fourth of those from cities were of German ancestry as compared to 18 per cent of those from rural counties. In all other ethnic categories there was no meaningful difference between the two groups. With respect to religious affiliation, the two groups did differ. Six of the eight Jews in the legislature came from urban areas, as did nearly half of the Roman Catholics (45 out of 93). An average of 5 per cent fewer Methodists, Presbyterians, and Baptists served from the urban counties, and 50 per cent fewer members of the Christian Church (Disciples of Christ). The religious affiliation of nearly one fourth of the lawmakers from cities could not be determined as opposed to only 18 per cent of those in the country.

Thirty-five per cent of the urban lawmakers were lawyers as opposed to 27 per cent of those from the country, while only 14 per cent of the representatives from urban counties were farmers as compared with 29 per cent of those from the rest of the state. Sixteen of the eighteen clergymen-legislators came from rural counties, as did thirty-seven of the forty-two teachers. Legislators from rural Indiana were almost twice as likely to have taught school as their urban counterparts (35 per cent to 19 per cent of the total number from each group had some teaching experience). Seven of the nine women who served came from the larger cities, as did nearly 90 per cent of those who could be classified as laborers. A majority of both groups held office on the local level (54 per cent of the urbanites and 62 per cent of the others). Rural legislators were likely to enjoy longer careers in the General Assembly; 71 per cent of those from cities served only one term in the House compared with 57 per cent of the representatives from the rural areas.

Typical and Not-So-Typical Legislators

The typical lawmaker of the era was born and died in the district that he represented for only one term. He was a lawyer or a farmer by profession, a Methodist, a Freemason, and a Republican. Although he frequently served his party and local government in several capacities, his service at Indianapolis represented the highest political office he ever held. He was most likely a family man, married to a woman from his district, and he had no active military service. William B. Vestal, Sr. (House, 1901) could serve as his prototype. Vestal was

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[16] One legislator, Alexander M. Scott, was excluded from the totals in this paragraph because he represented rural Montgomery County at the 1877 session and urban Marion County at the 1917 session.

born October 29, 1849, on a farm in Guilford Township, Hendricks County, of English ancestry. His education was limited to subscription schools (a system wherein the teacher was supported by fees paid by the students) in Guilford Township. A farmer, Vestal married Emma McCall in 1874 and four children were born of this union. He was active in the Hendricks County Republican party prior to his legislative service, and was chairman of the Guilford Township Advisory Board after his stint in Indianapolis. Vestal was a lifelong member of the Bridgeport Methodist Church and a member of Plainfield Lodge No. 653, Free and Accepted Masons. Vestal died on his farm in Guilford Township on April 1, 1916.[17]

Frank H. Self, a Republican attorney who represented Harrison County in the Senate at the 1919 and 1921 sessions, was the typical senator of the era. Self was born April 6, 1875, in Corydon, the son of Senator George W. Self who had represented Harrison County in the 1890s. The younger Self attended Corydon public schools and high school, Indiana University at Bloomington for one year, and received his LL.B. degree from Georgetown University, Washington, D.C., in 1896. He inherited the Corydon *Republican* from his father in 1914, and was Harrison County Republican chairman prior to his service in Indianapolis. Self married Lida Marshall in 1903, belonged to the Methodist church, and was a member of Pisgah Masonic Lodge No. 32 at Corydon. Self was a trustee of the state Boys' School at Plainfield from 1927 to 1933. He died on October 13, 1936, at Corydon.[18] Self's Democratic counterpart in the Senate was David F. Culbertson who represented Knox County at the sessions of 1915 and 1917. Culbertson was born August 6, 1878 at Edwardsport. He attended the Edwardsport public schools, DePauw University from 1898 to 1902, and received his LL.B. degree from the Indiana Law School at Indianapolis in 1904. Culbertson married Rita E. Curry of Edwardsport in 1909, and they had three children. He was Knox County prosecuting attorney from 1907 to 1911 and became best known as chairman of the state George Rogers Clark Memorial Commission from 1927 to 1940. A lifelong Methodist, Culbertson belonged to Edwardsport Masonic Lodge No. 429. He died October 16, 1942, and was buried in Vincennes.[19]

Many legislators were self-effacing, straightforward men similar to James K. Mason, a farmer from Fayette County at the sessions of 1915 and 1917. Mason, who never held any other public office, described himself as "Just a plain citizen of Indiana."[20] John W. Baugher, a German-born sawmill operator who represented Marshall County in 1893, stated: "Came to [the] Legislature to learn. Consider it Equal to a term in Col[l]ege & like the strange Employment."[21] William J. Miles spent his life on a farm near New Market. He was a justice of the peace for sixteen years and served two terms as a Montgomery County commissioner

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[17] Vestal file, Centennial History, ISL.

[18] Self file, *ibid.*

[19] Culbertson file, *ibid.*

[20] Mason file, *ibid.*

[21] Baugher file, English Legislator Collection, Indiana Historical Society Library, Indianapolis.

before advancing to the General Assembly at the age of sixty-seven. Miles described his life for the State Library in 1915:

> I was left an orphan when seven years [old] with a little brother of Three years old. He has long since gone to his long home[.] My Beloved companion for 39 years has gone to that . . . rest that belongs as I believe to the people of God[.] Also One darling Daughter Who blessed our happy home for 12 bright summers has many years ago left my side. Religion is my greatest Assett.[22]

William R. Phillips and Lawrence V. Leer both served at the 1921 session. Phillips, a physician from Connersville, declared that "I've never found a snap in anything I ever undertook." Leer, a farmer from Elkhart County, was impressed with the quality of his colleagues: "The legislature contains better men than the public at large are willing to admit."[23]

Legislators not noteworthy except for curious reasons included James M. Fippen, a Democrat from Tipton County at the 1893 session. Fippen spoke so often and so earnestly against a protective tariff that he earned the sobriquet "Calamity Jim." Since only the United States Congress could act on the tariff question, the press described Fippen as "one of those great, big, loose-jointed men" whose greatest failing was an inclination to talk too much. "No subject is too deep for him," one paper observed, and since he lacked the advantage of a first-class education "he has never been able to insert verbs in the right place."[24]

Walter S. Ratliff of Wayne County paid a high price for voting the way he did. Ratliff was a Quaker completing his master's degree at Earlham College when he voted in 1909 to weaken the temperance laws and to legalize Sunday baseball. One week after the session ended Earlham President Robert L. Kelly informed Ratliff that he would not receive his degree "on account of your failure to be governed by your pledges on moral questions . . . ."[25] Frank H. Gentry, who represented Monroe County in 1917, was famous as the owner and co-founder of Gentry Brothers Dog and Pony Show which thrilled audiences in Bloomington from 1885 to 1931. Gentry's association with this show gave him the name recognition that assured his election.[26] Myron H. Post (House, 1923, Madison County) had probably the most unusual occupation. A spiritualist in religion and a graduate of the Weltmer Institute of Suggestive Therapeutics in New York, Post "read widely on the science of mental healing." In February, 1925, he established offices in the Farmers Trust Building at Anderson where he helped patients "think away" their aches and pains as a Doctor of Suggestive Therapeutics.[27]

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[22] Miles file, Centennial History, ISL.

[23] Phillips and Leer files, *ibid.*

[24] Indianapolis *News*, January 28, 1893; Fippen file, Legislator, IHSL.

[25] Indianapolis *News*, March 15, 1909; Ratliff file, Centennial History, ISL. Ratliff completed all of his course requirements at Earlham College, but never was awarded his master's degree.

[26] Gentry file, Centennial History, ISL.

[27] Post file, *ibid.*

Writers and Poets

Many well-known writers and poets have tried their hand at lawmaking for a session or two since John Finley, Indiana's first nationally recognized poet, served in the House during the 1820s. These included Senator Lew Wallace of Crawfordsville during the 1850s and Representative Charles Major of Shelbyville at the 1887 session. Both of these former lawmakers received citations from the legislature for their contributions to American literature: Wallace for *Ben-Hur*, Major for *When Knighthood Was in Flower*. By the 1890s it was customary to honor all citizens who achieved literary distinction. In February, 1897, when poet Joaquin Miller was visiting James Whitcomb Riley in Indianapolis, the Senate arranged such a ceremony for "the Hoosier poet" and his famous friend.

A ferocious snowstorm hit the city on the appointed morning as senators gathered amidst speculation that the honored guests would not come. Soon it was stated positively that they would not come; then positively that they would come the following day. An unknown senator then moved to adjourn because of the snow, the motion carried, and the senators hurried away. Five minutes later a doorkeeper rushed in with news that Riley and Miller were at that moment coming up on the newly installed electric elevator. A helpless lieutenant governor, William S. Haggard, was crestfallen, saying the state would be disgraced and he would have to shoulder the blame for having no Senate there to greet the dignitaries.

James M. Huff, the Senate reading clerk, saved the day. "Call for order anyhow," Huff shouted to Haggard. The clerk then told the sergeant-at-arms to hold Riley and Miller in the hallway while Huff lined up every "good looking and intelligent lobbyist" he could find. Huff explained the predicament as four senators and about twenty-five lobbyists were seated. Then Riley and Miller were escorted into the chamber as Lieutenant Governor Haggard spoke of the great honor that the visitors bestowed upon the Senate. The lobbyist for the "Express people" and an attorney lobbying for the railroads followed with suitable expressions of praise. The ceremony concluded when James F. Stutesman, a cigarette lobbyist from Peru, said "And now as a further mark of respect to [o]ur distinguished visitors, I move . . . that this senate do now adjourn." Huff recalled later that "every one of my counterfeit senators spoke fittingly and appropriately." Thus did James Whitcomb Riley and Joaquin Miller have their hour in the Indiana Senate and to the best of Huff's knowledge neither poet ever guessed the truth.[28]

Booth Tarkington was the first lawmaker to write a successful novel based upon his legislative experience. Tarkington arrived at the 1903 session as a good-natured young writer whose main objective was to help some blind constituents who did not want to go to the poorhouse. At their request he introduced a bill to train a limited number of blind persons in broom making at a cost of $2,800

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[28] Huff to Harry S. New, February 19, 24, 1936, New Papers, Indiana Division, ISL; *Senate Journal*, 1897, p. 709. Lobbyist James F. Stutesman never served in the Senate, but he was a member of the House in 1895, 1901, and 1903.

annually. The bill passed but Governor Winfield T. Durbin vetoed it because Tarkington had opposed the governor on a patronage matter. Tarkington was also caught up in "the greatest tornado of public controversy" at the session, a bill that he favored to legalize Sunday baseball. This measure passed the House but died in the Senate. Through it all "there were pressure, misrepresentation, and downright dishonesty to contend with." By session's end the idealistic novelist was totally disillusioned. He summarized his feelings for the Indianapolis *News*:

> . . . it requires either a reckless humor or a superior species of moral courage to stand against the "church element" in a matter of principle. You are so personally proclaimed as of the damned by the particular authorities on damnation! You may buck the machine and get hard fighting, a lot of rough handling, and have some pretty fancy tricks played on you; but when you are looking for real trouble, follow your sense of right when it conflicts with the ideas of a Sunday-school superintendent.[29]

Tarkington and his wife left for the French Lick Springs Hotel shortly after the session ended. There the author began work on *In the Arena*, which was published in 1905. This story, set in the legislature of a midwestern state, revolved around the efforts of a "Mrs. Protheroe" who staged a one-woman campaign to legalize Sunday baseball. This captivating lady lobbyist lost her battle due to the machinations of the self-righteous "Josephus Battle," who killed the "Sabbath-Desecration" bill in the Senate. Battle was the tool of "Boss Gorgett," head of the political machine in the state's largest city. These thinly disguised characters had real life prototypes at the 1903 session. "Mrs. Protheroe" was Miss Letitia Gallaher of Evansville, who lobbied tirelessly but unsuccessfully for a deaf and dumb asylum; "Senator Battle" was Lewis V. Ulrey, the Allen County Democrat who led the fight against Miss Gallaher's asylum; and "Boss Gorgett" was Thomas Taggart of Indianapolis, state Democratic chairman and, as owner of the French Lick Hotel, Tarkington's host. Although not one of Tarkington's better-known books, *In the Arena* was his only political novel. The book was also the first successful work of fiction set in the Indiana General Assembly.[30]

Tarkington became especially attached to two nephews while serving in the General Assembly. In 1903 John Tarkington Jameson was fourteen years old and Donald Ovid Butler Jameson was twelve years old. These brothers, observed daily by their uncle, were the prototypes for Tarkington's famous *Penrod* trilogy. Like their uncle, each represented Marion County as a Republican for one term in the Indiana House: Donald in 1917, and John in 1921.[31]

While Booth Tarkington was the most prolific and famous writer to serve between 1890 and 1930, there were others who were almost as well-known.[32]

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[29] Indianapolis *News*, March 28, 1903. See also James L. Woodress, "Booth Tarkington's Political Career," *American Literature*, 26 (1954), 213-16.

[30] Woodress, "Booth Tarkington's Political Career," *American Literature*, 26:218-21.

[31] Donald and John Jameson files, Centennial History, ISL. The Jameson brothers were remembered best as co-founders of the Equitable Securities Corporation and for their lifelong participation in civic affairs.

[32] At least three of Tarkington's novels became motion pictures. In 1935 the screen version

Joseph A. Minturn, the widely-known Indianapolis patent attorney, served in the House in 1901 while the equally well-known banking attorney, Charles Nebeker Thompson, sat in the Senate. Minturn received national attention in 1893 with his book entitled *The Inventor's Friend; or, Success With Patents.* In 1899, Thompson's *Treatise on the Law of Building and Loan Associations* was well-received by the country's financial and legal communities. Both lawmakers turned to writing about Indiana history later in life. In 1928 Minturn published *Frances Slocum of Miami Lodge*, a biography of the white girl who grew up to become an Indian princess after she was kidnapped as a child. Thompson, who married the granddaughter of William Conner, wrote *Sons of the Wilderness: John and William Conner.* Published in 1937, this book stands as the definitive biography of these two pioneer lawmakers.[33]

At least six colleagues of Minturn and Thompson in the 1901 session enjoyed some success with published books. This total of eight authors made the 62nd General Assembly probably the most literary session in the legislature's history, particularly in view of the fact that most of their books appeared either before or immediately after the session. Senator Ephraim Inman, a Democrat from Daviess County, published his fetching *Stories of Hatfield, the Pioneer* in 1889. Inman was remembered best, however, as D. C. Stephenson's defense lawyer at the Grand Dragon's murder trial in 1925. Representative Benjamin S. Parker of New Castle, "the Hoosier poet in the Flower City," wrote two books of rhymes in the 1890s. Parker's best-known work, *Poets and Poetry of Indiana*, appeared in 1900. Representative George W. Louttit of Fort Wayne was a lawyer and author by profession. His first novel, *A Maid of the Wildwood: A Romance of the Middle West in Early Days*, appeared in 1901. Later he published several additional works of prose and poetry. Representative Elwood E. Small of Valparaiso became the last legislator from 1901 to publish during his year of service. Small's book of poetry was entitled *At the Court of Bohemia.* He later published other books of verse. Representative Alva O. Reser, a teacher and instructor of stenography, authored several short pieces on the history of Tippecanoe County. The best known was a pamphlet in 1909 entitled *The Tippecanoe Battle-Field Monument.* Representative Clay W. Metsker was editor and publisher of the Plymouth *Marshall County Democrat* from 1902 to 1931. In 1930 he published the verse he had written for his newspaper over several years under the title *The Glow Book of Human Interest Rhymes.* Metsker also published a highly successful anti-prohibition tract in 1931 entitled *Booze on its Hunkers: or A Nation's Awakening.*[34]

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of *Alice Adams* helped make Katherine Hepburn a movie star; in 1942 Orson Welles produced *The Magnificent Ambersons*; and in 1947 *Monsieur Beaucaire* served as the basis for a comic romp starring Bob Hope. In addition, the Penrod stories, retitled *On Moonlight Bay* and *By the Light of the Silvery Moon*, became screen musicals starring Doris Day and Gordon MacRae in the early 1950s.

[33] Minturn and Thompson files, Centennial History, ISL. Thompson also gained renown for his work as a member of the State Library and Historical Board and the State Library Building Commission from 1925 to 1934.

[34] Inman, Parker, Louttit, Small, Reser, and Metsker files, *ibid.*

Other writers of note during the era included Otto Stechhan, a German immigrant who became wealthy as a furniture manufacturer in Indianapolis between 1874 and 1900. Stechhan, who served as a Republican in the House in 1903, began his literary career after he retired from business. His works included *Unrequited Love*, a novel published in 1900, and *Love Letters of a German American*, published in Germany in 1904.[35] Jackson Boyd (House, 1903-1905) was a teacher and lawyer in Greencastle. His works included *The Unveiling: A Poetic Drama in Five Acts* published in New York in 1915. Boyd also wrote a philosophical tome, published posthumously, in which he claimed that he had solved the riddle of the universe:

> The human situation in Nature is to be Nature personified, and be not only self-conscious, but universally conscious, thereby becoming the directing agency of all force and energy along the line of the least possible resistance, securing for the individual all that can be, and all that Nature can accomplish in infinite space and infinite time, transcending the supernatural infinitely by realizing all there ever was, is now, or ever will be in actual reality; thus attaining immortality, not by living forever, but by having the experience of all time and space repeated in us, we thus constituting the Universe.[36]

Edward E. Moore (Senate, 1905-1911) and James J. Netterville (Senate, 1911-1913) were both lawyers who achieved recognition for writings in state and local history. Moore, a Republican from Connersville, published *Moore's Hoosier Cyclopedia* (1905) and *A Century of Indiana* (1910). Netterville, a Democrat and a resident of Anderson, was editor and compiler of a *Centennial History of Madison County, Indiana*, in 1925.[37] James S. Barcus (Senate, Vigo County, 1903-1905) wrote several novels as well as two books of inspiration for salesmen.[38]

Arthur R. Robinson, president *pro tempore* of the Senate in 1917, was in advertising and business management in 1912 when his *Memory and the Executive Mind* appeared. One critic described this book as "a volume of the most terrible drivel that was ever printed . . . ." The topics covered by Robinson included personal magnetism and earnestness: "Always remember . . . that personal magnetism never shows till earnestness has reached the intense point," he wrote. "Therefore . . . you must be intensely earnest in order that you may be conspicuous for the possession of magnetic power." Robinson also advised executives that if it made no particular difference to their welfare it was decidedly better to let the other fellow have his way, "thereby pleasing him by your action and at the same time suffering no inconvenience on your own account." Robinson's book also contained a note about personal hygiene: "Take your bath regularly, and do not permit your face to go along for days without shaving."[39]

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[35] Stechhan file, *ibid.*

[36] Jackson Boyd, *The Human Situation in Nature* (Chicago, 1921), 277.

[37] Moore and Netterville files, Centennial History, ISL.

[38] Barcus' novels included *The Boomerang* (1896) and *The Repentance of Croesus* (1914). His books on salesmanship included *The Science of Selling for Canvassers, Drummers and Clerks* (1895). Barcus file, *ibid.*

[39] "Arthur R. Robinson: A Study in Vacuity," *Lake County Review*, January 19, 1934, clipping in Robinson file, *ibid.* Governor Ed Jackson appointed Robinson to the United States Senate when incumbent Senator Samuel M. Ralston died in 1925. Robinson served until 1935.

The era of the First World War produced two General Assembly poets. Harry E. Negley was elected to the Senate from Indianapolis in 1916 and was president *pro tempore* in 1919. He wrote *Poems with a Punch for Patriotic People*, which was published in 1918, and the following year *The Outlawed Nations, with Appendix: Other War Poems*. Negley was also prominent in the Indiana Liberty League, an organization formed in 1926 to advocate repeal of the Wright Bone Dry Law.[40] The published poems of Charles A. Phelps (House, 1919) included "The Patriot" and "Let Freedom Ring." Phelps published *The Griswold-Phelps Handbook and Guide to Fort Wayne, Indiana, For 1913-14*. A newspaper distributor, Phelps also ran Newsboy City, a summer camp for paper carriers.[41]

Curtis G. Shake, a Democrat from Vincennes who served in 1927 in the Senate, was the most prominent writer in the legislature during the 1920s. His output included *A History of Vincennes University* (1928) and *The Old Cathedral and Its Environs* (1934) plus other books on the history of Vincennes. Shake was chief justice of the Indiana Supreme Court in 1939, 1941, and 1944 and chairman of three federal emergency boards for the settlement of railroad strikes from 1944 to 1947. Shake then became internationally famous as a judge when he presided at the Nuremberg War Crimes Trials in 1947 and 1948.[42]

Academicians

Several prominent academicians served a stint in the General Assembly during the era. Collectively, they were affiliated with some of the leading public and private institutions of higher learning in the state. Many were similar to the writers and poets in that they were widely published in their respective fields of specialization. But unlike the writers and poets, who represented a wide variety of other occupations and never spoke as a bloc, the professors as a group tended to speak as one for the interests of higher education while serving at the State House. And they did this regardless of their political affiliation.

John W. Cravens (House, 1899, 1901) and David A. Rothrock (House, 1919) each represented Monroe County and each spent his academic career at Indiana University. Cravens, a Democrat, was registrar and secretary at the school from 1895 to 1936 and for most of those years he was active in politics. He authored several articles for professional journals on the history of Indiana University and its alumni. Rothrock, a Republican, received a Ph.D. from the University of Leipzig and was a professor of mathematics in Bloomington from 1892 to 1938. He authored several college-level textbooks on algebra and trig-

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[40] Negley file, *ibid.*; Indianapolis *Star*, December 14, 1926.

[41] Phelps file, Centennial History, ISL.

[42] Shake file, *ibid.* Republican Representative Charles M. LaFollette of Evansville served at the 1927 session while Curtis Shake served in the Senate. LaFollette later served in the U.S. House of Representives from 1943 to 1947. In 1946 he became an Independent in politics and a co-founder and national director of the liberal Americans for Democratic Action. The paths of LaFollette and Curtis Shake crossed again at Nuremberg in 1947 when LaFollette was a chief deputy counsel at the War Crimes Trials. In 1950, President Truman appointed LaFollette to the U.S. Subversive Activities Control Board. See LaFollette file, *ibid.*

onometry, and also served for seventeen years as dean of the College of Arts and Sciences. Besides his one term in the General Assembly, Rothrock also served for eight years on the Bloomington City Council and eight years on the Indiana Conservation Commission. He was a co-founder and lifetime member of the Indiana Academy of Science.[43]

Republican Lemuel A. Pittenger and Democrat Olis G. Jamison were colleagues in the House at the 1927 session. Pittenger devoted his life to making Ball State Teachers College one of the leading teacher training institutions in the nation while Jamison accomplished the same end for Indiana State Teachers College at Terre Haute. A graduate of Indiana University, Pittenger was named professor of rural education at the Eastern Division (Muncie) of the State Normal School in 1922. He continued to teach at the college while serving in the General Assembly during the 1923, 1925, and 1927 sessions. During the latter two sessions Pittenger rendered "yeoman service" to higher education as majority floor leader. In July, 1927, Pittenger was named president of Ball State Teachers College because, in the words of the Muncie *Star*, "he has been a leader of the education group in the legislature." At the 1929 session President Pittenger lobbied successfully to have the General Assembly separate Ball State Teachers College from the Indiana State Teachers College. In that same year he pledged that his institution would produce "well-trained teachers who can take the findings of research scholars and so organize and present these new truths that the mass comes to know and profit by them." He was a member of the state Board of Education from 1927 to 1932 and from 1937 to 1941. He served Ball State as president until 1942. During all of these years Pittenger was active in the National Education Association and the Indiana State Teachers Association. After his retirement Lemuel Pittenger returned to the General Assemby as a senator and died midway through his term in July, 1953.[44]

Olis G. Jamison was teaching social science at Linton High School in 1926. "At the close of school one afternoon . . . I received a call from the President of the . . . School Board, and the Stockton Township Trustee," Jamison recalled. They asked Jamison to run for the General Assembly, something he was hesitant to do "because Greene County had been voting Republican for several years. It was a big gamble to expect a Democrat to win." Jamison ran and won, and found the experience significant in two ways:

> First, it extended my horizon. Secondly, it stirred within me a desire for action which otherwise I might not have had. I met, talked with, and became acquainted with many interesting people from all sections of Indiana. Up to this time I had been very contented in my teaching position . . . . [My wife and I] felt that we could quite happily spend our future in Linton.[45]

After the session, Jamison enrolled at the Terre Haute normal school, from which he graduated in 1928. Jamison then served this school as a professor and

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[43] Cravens and Rothrock files, *ibid.*

[44] Glenn White, *The Ball State Story: From Normal Institute to University* (Muncie, Ind., 1967), 66-67, 73; Pittenger file, Centennial History, ISL.

[45] Olis G. Jamison, *Echoes from the Trail: An Autobiography* (Terre Haute, Ind., 1973), 125-27.

administrator from 1928 to 1960. He received a Doctorate in Education from Stanford University in 1935 and established the laboratory school at Indiana State Teachers College the same year. During the next quarter century Jamison lobbied regularly during legislative sessions to expand the college into a university. As an academician, Jamison co-authored several high school textbooks including *American Democracy and Social Change* (1936) and *The Government of Indiana* (1940). He was also active in the Democratic party throughout his life, serving as Vigo County finance chairman and in several other capacities. In 1944 he was an unsuccessful candidate for the United States House of Representatives. During all these years Jamison was equally active in such professional organizations as the national and state teachers' associations, the National Council for the Social Studies, and the Progressive Education Association. Lemuel A. Pittenger and Olis G. Jamison were leaders in making the state's two teachers' colleges among the best known and most respected such institutions in the nation.[46]

Three professors from Butler University served as Republicans in the Indiana House. Hugh Thomas Miller (1903, Bartholomew County) and Thomas Carr Howe (1905, Marion County) were language professors, while Paul L. Haworth (1921, Marion County) was a professor of American history. Miller and Howe received their bachelor's and master's degrees from Butler before going abroad for advanced study. Miller, whose tenure at the college extended from 1889 to 1899, studied at the University of Paris and the University of Berlin. He moved to Columbus in 1899 where he became one of the state's leading financiers and industrialists as president of the Irwin-Union Trust Company and chairman of the board for Cummins Engine Company. Miller was elected lieutenant governor in 1904. Howe studied at the University of Berlin and received his Ph.D. from Harvard University. He was a professor at Butler from 1889 until his death in 1934. From 1908 to 1920 he was president of the school. He also served on the Indianapolis City Planning Commission from 1921 to 1925, and as president of the state Teachers' Retirement Fund Board from 1921 to 1933.[47]

Paul L. Haworth gained national renown as an historian. A native of Marion County, he received his A.B. and M.A. degrees from Indiana University and his Ph.D. from Columbia University. Haworth taught at Butler from 1922 until 1938 and authored several historical and travel books. They included a definitive study of the disputed Hayes-Tilden presidential election of 1876, an acclaimed account of the Reconstruction Era, and a college textbook entitled *The United States in Our Own Times, 1865-1920.* Haworth lost for state representative on the Progressive party ticket in 1912 and served his term in 1921 after returning to the Republican party.[48]

Glenn Culbertson and Francis C. Tilden served at the 1909 session, the former in the House and the latter in the Senate. Culbertson was a professor of astronomy and geology at Hanover College from 1893 to 1927. He received

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[46] *Ibid.*, 109-11, 138-40; Jamison file, Centennial History, ISL.
[47] Miller and Howe files, *ibid.*
[48] Haworth file, *ibid.*

his A.B. and M.A. at Hanover before advanced study at the University of Chicago. He taught at the Presbyterian mission school in Bangkok, Thailand, before joining the Hanover faculty. Culbertson served several years as Hanover's vice-president and as secretary of the school's board of trustees. He authored numerous articles for scientific journals and served as president of the Indiana Academy of Science. Tilden was a professor of English at DePauw University from 1898 to 1940, and university librarian from 1913 to 1930. A DePauw alumnus, he did his graduate work at Harvard University and at Oxford University in England. While a member of the DePauw faculty, Tilden was active in the state's Anti-Saloon League.[49]

Other Prominent Professionals

While writers and professors constituted two of the most conspicuous groups of legislators who made their major mark outside of the General Assembly, prominent citizens from most other professions and classes also served. They included doctors, lawyers, insurance agents, and self-made men. John N. Hurty (House, 1923) was the best known of the physicians. Hurty was born in Lebanon, Ohio, and moved to Indianapolis in 1873 as a pharmacist associated with the new Eli Lilly Company. In the 1880s he entered the Medical College of Indiana from which he received his M.D. degree in 1891. Hurty joined the school's faculty after graduation and became famous as "the Hoosier health officer" between 1896 and 1922 when he headed the state Board of Health. Hurty continued as a professor of medicine while serving as state health commissioner. He wrote numerous articles on health and hygiene and in 1906 published *Life with Health*, a book-length plea for expansion and improvement of public health programs. Hurty's duties as head of the state Board of Health necessarily entailed lobbying for his department at each biennial session. His experience with niggardly lawmakers as a lobbyist made him very bitter about the legislature.

Hurty's jaundiced perspective was shown by an incident while he lectured at the Indiana University Medical School. The school was located across from the State House in the 100 block of North Senate Avenue, just south of the present State Library. Hurty began class one morning by announcing: "Gentlemen, I shall not lecture today, but instead wish to hold a clinic. We have the opportunity to see the largest group of morons in the State. If you will please to follow me I shall demonstrate them." The professor then marched his class across the street and up the steps to the legislative floor. "Gentlemen, you will find the Senate on the left and the House on the right." On other occasions, Hurty stated to the press that legislators kept late hours, ate and drank too much, and lived badly. He referred to them as uncouth, tobacco-spitting, uneducated men who knew nothing about lawmaking. When they appropriated funds for a livestock exhibit building at the State Fair grounds, Hurty ridiculed them for being more interested in hogs, cattle, and chickens than in men, women, and

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[49] Culbertson and Tilden files, *ibid.*

children. This ridicule of lawmakers prevailed during the entire quarter century that Hurty headed the Board of Health, and led his biographer to remark "One wonders how he got any legislation through at all."[50]

As early as 1910 Hurty began to lobby for a law that would allow counties and cities to establish full-time health departments. His acerbic and unrelenting attacks on the legislature, however, ensured that the bill always failed. After the 1921 session Hurty decided to run for the legislature himself because it seemed impossible to him that such a sensible measure would fail if he were right there on the floor to fight for it. He announced his candidacy in March, 1922, and ran first on the Republican ticket from Marion County in the May primary. In September he resigned as head of the Board of Health and was elected when Republicans swept the November general election. But he was doomed to disappointment at the 1923 session. Every measure proposed by Hurty was voted down, including his bill for full-time county and city health officers. When it became apparent that this last would fail, and "before the reading of the roll was completed, Dr. Hurty rose and with bowed head left the room, utterly brokenhearted." The defeat proved too much. Hurty lived two years after his term ended but, according to his biographer, "he was disillusioned, bitter and tired. Those of us who knew him well rather prefer to forget those months."[51]

Asa J. Smith, a prominent Indianapolis attorney who played a leading role in the prosecution of some of Indiana's most controversial criminal cases, was Hurty's colleague at the 1923 session. Smith was born in Wabash, graduated from DePauw University in 1915, and received his LL.B. from the Indiana Law School at Indianapolis in 1917. He joined the United States Marines during World War I and was wounded at Belleau Wood. In 1919 he became secretary to United States Senator Harry S. New and in 1922 he returned to Indianapolis to run successfully for a seat in the Indiana House. He lost a close contest for speaker to Raymond C. Morgan at the subsequent session, and in 1924 decided to concentrate on his law practice rather than stand for reelection. His clients included the Oberholtzer family of Irvington, and in 1925 Smith helped convict D. C. Stephenson of second degree murder based on the dying declaration of Madge Oberholtzer. "The night Madge Oberholtzer was returned here I was called to their home," Smith recalled. "I remained at the Oberholtzer home day and night taking down the final words from that girl before she died." Smith's law business flourished as a result of the favorable publicity he received for helping convict the Grand Dragon of the Klan.

Smith reenlisted in the Marines during World War II. In 1947 he was appointed commissioner of the United States District Court for Southern Indiana, and in 1954 Marion County Prosecutor John J. Tinder named Smith as his chief deputy prosecutor. As deputy prosecutor Smith conducted the preliminary investigation of the state Highway Department during the administration of Gov-

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[50] Thurman B. Rice, *The Hoosier Health Officer: A Biography of Dr. John N. Hurty and the History of the Indiana State Board of Health to 1925* . . . (Indianapolis, 1946), 373-74.

[51] *Ibid.*, 374-76; Hurty file, Centennial History, ISL.

ernor George N. Craig. His work led directly to the 1957 highway scandals in which ten persons were convicted of bribery and other charges. Smith was remembered above all as a wit. And his wit was never shown to better advantage than at the 1923 session when he was involved in two incidents that illustrate how legislators sometimes let off steam with light-hearted debate on pretended issues.

According to an acquaintance, Smith introduced legislation making it a felony to fold an abstract of title. In those days, every attorney examining an abstract—and all attorneys examined abstracts—had to unfold each page to read it. The abstract was then refolded and wrapped with a rubber band, only to be unfolded again each time anyone wanted to read or add to it. Smith's "bill" was roundly debated before being defeated. Several days later Smith was back with a bill to make it a specific crime to steal a chicken. He was told chicken stealing was already a crime and countered that in certain counties in southern Indiana, unless you spelled it out in clear and unmistakable words, calling a chicken by its name, the people would not consider it a crime and would continue to steal chickens. Smith argued the bill with enthusiasm, saying chicken stealing in southern Indiana should not be allowed to continue unhampered and unchallenged. The bill was tabled.[52]

Russell P. Harker, an attorney at Frankfort, represented Clinton County as a Republican in the House at the 1917 session. He was remembered not because he was a lawyer or lawmaker, however, but because as an undergraduate at Bloomington he composed the Indiana University fight song, "Indiana, Our Indiana."[53]

Asa E. Addington was a law student at Indiana University when he served in 1923 from Randolph County. Addington, who was blind due to a congenital birth defect, had graduated from the Indiana School for the Blind in 1913 and became noteworthy during his term at Indianapolis because of his skill with a Braille shorthand machine. "He is exceedingly swift and accurate," said the Indianapolis *News*, "and can take down the words of members almost as rapidly . . . as a stenographer. In doing this he has a complete record of the day's proceedings, which he studies after the session closes, and when he returns to his desk the following day he is much better posted on what happened at the previous session than a majority of the members." Addington was the Republican candidate for Randolph County prosecutor in 1924, but he died before the general election. In 1926, Indiana University awarded Addington an LL.B. degree posthumously.[54]

John D. Volz (House, 1907) and Samuel E. Voris (House, 1911, 1913) were two of the better-known insurance agents to serve. Volz, a Republican from Indianapolis, was chairman of the House insurance committee during his term. From 1893 to 1935 Volz was a state and national official for the Modern Woodmen

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[52] Smith file, *ibid.*, see especially James E. Farmer to author, April 20, 1983.

[53] Harker file, *ibid.*

[54] Addington file, *ibid.*

of America and he was best remembered for directing that organization's insurance program. Voris, a Democrat from Crawfordsville, was also chairman of the House insurance committee. In 1894 he helped found the Tribe of Ben Hur, and as Supreme Keeper of the Tribute for that organization he directed an insurance program worth millions of dollars by the time of his death in 1920.[55]

Elam Y. Guernsey retired from business in the early 1920s after making a fortune in a men's clothing store at Bedford. He devoted the rest of his life to studying and preserving Indiana's natural resources. A self-taught archaeologist, he wrote a comprehensive *Archaeological Survey of Lawrence County*, published in 1924. While engaged in this study, Guernsey became interested in preserving one of the county's more beautiful forested areas as a state park. To accomplish this purpose, he successfully ran for a seat in the state House of Representatives in 1926, thus beginning a long and distinguished career as the legislature's leading proponent of conservation. Guernsey represented Lawrence County at seven sessions between 1927 and 1941. During that time he was recognized as the legislative champion of the state park system and of a separate state Department of Conservation. At his first session in 1927 Guernsey authored the bill under which the state acquired title to what eventually became Spring Mill State Park; in 1931 he published a history and archaeological description of the park. With only a rudimentary common school education, Guernsey became one of the state's better-known archaeologists. In the legislature of the era he was the best example of a man who made his fortune and then devoted his later years to unselfish public service.[56]

Life in Indianapolis

Between 1891 and 1929 legislators who lived outside of Marion County usually traveled to and from Indianapolis by rail. Until 1903 most arrived at the Union Station on South Illinois Street; after that year a majority disembarked at the Traction Terminal Building on Market Street, just opposite the Capitol Street entrance to the State House. Built to accommodate the state's interurban system, the Terminal Building remained the focal point of arrivals and departures for most legislators until the system's demise in 1941. With the development of state highways after World War I, however, an increasing number traveled to sessions by automobile. The popularity of the automobile was such that by 1929 complaints about the lack of downtown parking places were common and a formal protest was lodged in the Senate because lawmakers had to pay for parking space on the State House grounds.[57]

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[55] Volz and Voris files, *ibid.* For Voris' work with the Tribe of Ben Hur, see Crawfordsville *Journal*, May 27, 1920.

[56] *House Journal*, 1927, pp. 270, 341, 394, 495, 807, 809; *Laws*, 1927, pp. 735-37; Guernsey file, Centennial History, ISL.

[57] Indianapolis *Times*, January 15, 1929. The complaint was made by Senator John L. Niblack of Indianapolis. The experience of Harold R. Donnell (House, 1927, 1929) was typical of those who used the interurban. Donnell said he enjoyed the General Assembly and staying in Indianapolis where he worked conscientiously Mondays through Fridays. Every weekend, however, Donnell took the interurban back to North Vernon to "milk the cows" and catch up with chores on his farm. Donnell oral history interview, 2nd ms., 94, Indiana Division, ISL.

Once in the capital city lawmakers had a choice of more than fifty hotels for their home away from home. The Spencer House served as "THE Indianapolis hotel" in the 1890s whenever the city was jammed with politicians, railroad tycoons, and their retinues. Built in 1857 at 248 South Illinois Street, directly across from Union Station, the Spencer remained a favorite haunt for newsmen, politicos, and lobbyists until the interurban took away much of its traffic. Then the Spencer House deteriorated steadily, although it enjoyed a political revival after Jasper L. ("Jap") Jones purchased the property in 1939. Jones (House, 1923) operated a chain of hotels in the state between 1933 and 1965. During the two terms that Henry F. Schricker was governor (1941-1945, 1949-1953) Jones served on the state Highway Commission and the Spencer House served as unofficial state headquarters for the Democratic party. The hotel was razed in 1963.[58]

The Grand Hotel, on the southeast corner of Illinois and Maryland streets, housed Democrats in the 1890s when it was owned by political "king maker" Tom Taggart. Before Taggart, the Grand was famous for its spacious though unheated rooms ("in those . . . days, if you wanted a fire, you had to pay extra for it") and for its elegant dining facilities. After Taggart purchased the Grand its lobby became equally famous because "Governors, senators, congressmen and prominent figures in the Indiana legislature strolled across the tiled floor to cushioned chairs in the corners." Taggart, who met his guests at the desk and never forgot a name or face, made several improvements. They included a $50,000 bar "three steps down off of Illinois street" where a genuine "Kentucky bartender" made the mint juleps.

Democrats booked rooms at the Grand during every legislative session until Taggart sold the hotel in 1904. The amenities enjoyed by these legislators included their host's inveterate wit. For example, one evening a group of Democrats in the lobby decided to hire hacks and go to a tavern on Ray Street owned by a southside precinct committeeman. "Let's all go in to Bill's place and order fancy drinks," said Taggart. "He [Bill Flynn] won't know how to mix any of them." When the group did what Taggart suggested, Flynn reached under the bar and brought forth a bottle of rye. "Drink whisky," he chortled. "It's better for ye. Them fancy drinks will kill ye."[59]

"Statesmen, politicians, orators and 'windjammers' in general thronged the lobby and corridors" of the Denison Hotel on the southeast corner of Pennsylvania and Ohio streets. This 250-room facility, a city showplace and hub of social activity, opened in 1880 as the New-Denison House. It was co-owned by John C. New, publisher of the Indianapolis *Journal*, who made his hotel the Republican party's stronghold in the capital city. The New-Denison remained a first choice of Republican legislators until 1904 when Thomas Taggart purchased the property.

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[58] "Spencer House, One Time Riley, Tarkington Haunt, To Be Razed," Indianapolis *Star*, October 11, 1963; Indianapolis *Times*, July 31, 1960; Jones file, Centennial History, ISL.

[59] For the Grand Hotel, see "Landmark of Gay '90s Will Be Razed," Indianapolis *Times*, June 5, 1937; Indianapolis *News*, June 5, 1937; Indianapolis *Star*, June 20, 1937; "Two Hotel Men of City Famous," *ibid.*, June 11, 1939.

Taggart shortened the name to Denison Hotel and under his management it became a rendezvous for Democrats until the 1920s. Thus legislators from both major parties knew the Denison as a place for politicking. Its famous Parlor A, a spacious room on the second floor with but one door, was the site of frequent strategy conferences. On both sides of the parlor were long rows of rooms always reserved as the headquarters of candidates for state offices.

Among the Denison's side attractions was an "Amen corner" in the lobby where "men of art, music, literature, politics and the press" discussed everything from sociology to the latest fashions. There was also a dining room with mirrored walls and crystal candelabra where a Sunday evening dinner at the turn of the century became "a social and epicurean event of note—and you could fill up grandly for . . . 75 cents." The adjoining bar offered wines from Italy, Spain, and Portugal, champagne from France, beer from Germany, ale from England, and whiskey from Ireland and Scotland. Until closed by prohibition, the bar was also known for a parody of James Whitcomb Riley's "When the Frost Is On the Punkin":

> When the booze is in the bottle and
> the bottle's on the bar,
> When the seltzer is a-sparklin' like
> the early morning star;
> Ah, it's then that one is happy, it is
> then that one is gay,
> As he mixes booze and seltzer in a
> contemplative way.[60]

The old Bates House, on the northwest corner of Illinois and Washington streets, declined with the rise of the Denison. A landmark since 1853, the Bates was razed in 1901 to make room for the new Claypool Hotel which opened in 1903. The Claypool, without peer in the city, was heralded as the greatest hotel west of New York City. It was the first hotel in Indianapolis to provide bathing facilities in half of the rooms. The lobby, seventy-two by fifty-three feet with a fifty-three foot high ceiling and sixteen great pillars of fake marble, was lighted by 1,000 lights. Special rooms included an Empire writing room, a Moorish room, and a Louis XVI parlor. The dining facilities included the opulent Riley Room with accommodations for 550 people, the Ladies Cafe on the second floor decorated with tapestries, the Atrium Cafe, a roof garden, and numerous private "Renaissance" dining rooms. Rooms suitable for conventions included an elegant theater, an assembly hall, and several ballrooms.

Republicans migrated to the Claypool in 1905 after Thomas Taggart purchased the Denison. By 1915, even when the legislature was not in session, politicians of all persuasions were fixtures as both the Republican and Democratic parties maintained their state headquarters at the Claypool year round. The hotel

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[60] For the Denison Hotel, see "Denison Once Show Place of City, Hub of Social Activity, Politics," Indianapolis *Star*, August 6, 1933; "Fine Hotels, Cafes Gave Indianapolis Fame," *ibid.*, September 27, 1953; Indianapolis *News*, August 26, 1933.

remained the favorite haunt of partisans of both parties until well after World War II. The onset of prohibition brought a critical problem in the 1920s, a problem that was solved by an enterprising young man named Stewart ("Stew") Donnelly who set up a flourishing bootleg trade in the hotel's lobby. Donnelly kept hotel guests supplied with liquor and "also catered to the thirsty politicians and lobbyists in the nearby Statehouse." According to reporter Robert K. Kyle, Donnelly's better known customers included Governor Ed Jackson and prominent legislators from both parties.[61]

From the day it opened, the Claypool with its lavish facilities was the most opulent place to live downtown. Until about 1910 lawmakers satisfied with less luxury could find a room at the Denison or the Grand for as little as 50 cents per day. These hotels raised their rate to $1 per day by 1917 and in the 1920s the rate at the Denison rose to $3 per day. The Hotel Severin, opened in 1913 on the southeast corner of Illinois and Georgia streets, competed effectively for legislators' favor in the 1920s. The Lincoln Hotel, completed in 1922 opposite the Claypool at the point where Kentucky Avenue and Washington Street intersected, intended to rival its neighbor in opulence but the hotel did not become popular with legislators until the 1930s. The English Hotel on the Circle was famous as the stopping place for the actors and actresses who played at English's Opera House. It ceased to attract many legislators after the 1890s, however, because of the opening of the Columbia Club on the Circle.[62]

Price-conscious legislators who wanted economical accommodations near the State House had several choices. These included the Lorraine Hotel, opened in 1898 on the southwest corner of Washington Street and Capitol Avenue, directly across the street from the Capitol. The Lorraine remained popular with legislators until after World War II because of its location. A few members stayed there at every session until 1967 when the Lorraine was razed to make way for a parking lot adjacent to the present Indiana Exposition-Convention Center. Other hotels were patronized by legislators because they were within a block or two of the State House. These included the Roosevelt, built on the northeast corner of Capitol Avenue and Ohio Street in 1906, and the Plaza, opened in 1914 on the point at the intersection of Capitol Avenue and Indiana Avenue.[63]

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[61] For the Claypool Hotel, see "Famous Old Hostelry Ready For Next Chapter in Its Life," Indianapolis *Times*, December 20, 1938, and "Grand Old Claypool About to Bow Out," Indianapolis *Star*, September 8, 1968; for Donnelly's bootleg business, Robert K. Kyle, "Remember the Claypool?," *ibid.*, December 4, 1977. "Stew" Donnelly later became notorious as an internationally known "confidence man." He remained a fixture in the Claypool lobby until the 1950s. See "Indianapolis Plunderworld . . . No. 1," Indianapolis *Times*, July 22, 1951; "Stew Donnelly Sues Hotel for $50,000 Damages," Indianapolis *Star*, July 31, 1946; "The Pay-off," *ibid.*, Sunday Magazine, April 11, 1948.

[62] For the Hotel Severin, see Indianapolis *Times*, April 28, 1965; for the Lincoln Hotel, Indianapolis *News*, June 28, 1968; for the English Hotel, "Fine Hotels, Cafes Gave Indianapolis Fame," Indianapolis *Star*, September 27, 1953.

[63] For the Lorraine Hotel, Indianapolis *Star*, May 25, 1967; for the Roosevelt and the Plaza, *ibid.*, July 19, 1914, January 11, 1941, June 17, 1946.

A private club was the major alternative to a hotel during a legislator's stay in Indianapolis. The Columbia Club, on Monument Circle next to Christ Church Cathedral, was the first such club in the city. It originated as a "Marching Club" during Benjamin Harrison's presidential campaign in 1888 and became permanent the following year. Membership was exclusively Republican at the Columbia Club until the 1940s, and exclusively male until 1979.[64] James F. Stutesman of Peru (House, 1895) was one of the first legislators outside of Marion County to be a Columbian. The club's popularity increased among Republican legislators after a new clubhouse was completed in 1900. The new building housed twenty-one apartments (each with a private bath), a banquet room, a ballroom, a writing room, and a first-floor cafe.[65] Democrats had no equivalent until the Indianapolis Athletic Club opened on the southwest corner of Vermont and Meridian streets in 1924. The Athletic Club did not become a factor in legislative life, however, until Democrats were returned to power in the state during the 1930s. The opening of this elaborate facility did move Columbians to raze their second clubhouse and build the present ten-story building in 1925.

Lawmakers seeking good food at a moderate price outside of their hotel or club could choose between several restaurants. Pop June's Shell Oyster House, which opened in 1872 at 25 North Illinois Street (later at 109 South Illinois), was a lunchtime favorite for nearly half a century. Stegemeier's Restaurant, which opened next door to Pop June's in 1892, was also a place where "Governors, senators and legislators in the Statehouse were frequent visitors." Richard W. Stegemeier, a German immigrant who became one of the city's most famous restauranteurs, said in 1953 that "Up to 1910 at our noon lunch we served soup, two choices of meat, three vegetables, dessert and a drink—all for 25 cents." The fare at dinner was even more varied. Joe Stahr's St. Elmo Steak House opened at 127 South Illinois in 1902 and offered more elaborate dining. It was renowned among legislators for its steaks and seafood. The Riley Room at the Claypool dominated the banquet scene with at least one major affair during every session. The most famous party at the Riley Room, however, occurred out of session on October 7, 1915. Former Vice-President Charles W. Fairbanks was toastmaster as nearly 600 persons, including the state's prominent politicians from both parties, gathered to celebrate the sixty-sixth birthday of James Whitcomb Riley.[66]

The State House, four years old when the era began in 1891, underwent no noteworthy structural changes, remodeling, or improvements. Thus, the phys-

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[64] Although the Republican requirement was not removed from the membership application until the 1940s, Democrat Paul V. McNutt was a member all the time he served as governor of Indiana during the 1930s. Indianapolis *News*, March 23, 1950. The Columbia Club was ninety years old when it admitted its first woman member, Ardath Burkhart, in 1979. Indianapolis *Star*, October 4, 1979.

[65] John J. Sullivan, "A 75-Year History of the Columbia Club: 1889-1964," *The Columbian* (August, 1964), 30-46.

[66] For restaurants, see "Fine Hotels, Cafes Gave Indianapolis Fame," Indianapolis *Star*, September 27, 1953; Riley's birthday party, *ibid.*, September 8, 1968.

ical dimensions and decor of both the Senate and House chambers in 1929 were essentially the same as they had been since the building opened in 1887. The only major complaint that lawmakers consistently lodged regarding their facilities involved poor ventilation. The most serious incident occurred in 1917 when Senator William T. Green died on January 23, just two weeks after the session convened. Green, a Noble County physician who was fifty-nine years old, complained the day before he died that a "poorly vented Senate chamber and the fact that his desk was near a door" brought on his illness.[67] The situation had not improved by 1929 when the Indianapolis *Times* reported that "CAPITOL DIRT STIRS WRATH OF SENATORS." Members took fifteen minutes to describe how parts of the State House were "unfit for habitation." Senator George W. Sims of Terre Haute put the case succinctly: "The ventilation's bad; the heat's bad, the elevator service is bad, the window blinds are a disgrace and the desks so dirty you can't work ten minutes without being a sight!"[68] There were no major improvements in the ventilation system until after World War II.

Because lawmakers were weary after the rush of business on the last day, closing night was always marked by tomfoolery. In 1899 Republican John A. Bonham of Blackford County composed a resolution that named each of his colleagues:

> Whereas, the members of the House are about to cease their toil and are *Aikin* to reach their homes, and the *Bakers* of the House are about to surrender their knives, and each seems to have been presented with a *Barlow*, one a *Brown* and the other a *Green* one, and Whereas, They do not desire to *Caraway* them, either to *Canada* or to *Catley*, and . . . .

Bonham's resolution was adopted and spread over two pages of the *Journal*. A Democratic colleague, Luther U. Downey of Owen County, expressed his sentiments with "poetry":

> 'Twas early in the winter of the year o' '99,
> When the Sixty-first Assembly 'gan to beat agin old time;
> And the boys from out the country come a pourin' into town,
> To lift the burden off the people who were sorely trodden down;
> And to see 'em squad together and hustle into line
> Was a sight not soon forgotten by a man jist in his prime.[69]

The Indianapolis *Star* reported in 1911 that the "SESSION ENDS AMID RIOT AND DISORDER" as "Speakers Pelted With Papers and Pamphlets." The frivolity began about 8:30 p.m. when some House members "invaded" the Senate and sang "We're Here Because We're Here" while others who belonged to the Improved Order of Red Men went into a "war dance." After doorkeepers expelled the intruders, they returned to the House for a boxing match between "Shorty" Galbraith and "Bantam" Benz.[70] Representative Emmet C. Mitchell,

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[67] Green file, Centennial History, ISL.

[68] Indianapolis *Times*, January 15, 1929.

[69] *House Journal*, 1899, pp. 1913-16.

[70] Representative Francis I. Galbraith (Democrat, Ripley County) and Representative Samuel Benz (Democrat, Crawford County). Indianapolis *Star*, March 7, 1911.

a bachelor from Washington County, was conversing "as usual . . . to a bevy of pretty girls." At the same time, Representative Miles J. Furnas offered a resolution to appoint a committee of two to ask traction magnate Hugh J. McGowan to hold the eight o'clock car to Greenfield for the benefit of Hancock County Representative Harry G. Strickland. The Senate adjourned at 11:50 p.m., the House at 12:02 a.m.[71] During the 1920s the closing night festivities always attracted a large audience that packed the galleries in anticipation. In 1925, for example, after Speaker Harry G. Leslie received a silver tea service and majority leader Lemuel A. Pittenger a leather brief case, vaudeville acts were introduced. The performances included legerdemain by R. E. Eggleston and songs by Patricola. The evening (and the session) ended with an "informal" dance.[72]

The celebrations did not cease in the 1920s with adjournment *sine die* because Thomas Taggart always invited all members of both houses and their wives to be his guests for two days at the French Lick Springs Hotel. Most lawmakers accepted Taggart's hospitality. Thus, in 1923, Harold C. Feightner reported directly from the hotel to the Indianapolis *News*: "The legislators are stretching out and relaxing after their strenuous duties of the last sixty days, partisan animosity has been forgotten and little groups of Republicans and Democrats can be found everywhere discussing the results of the assembly and the prospects in the next campaign." After forty-eight hours in French Lick, Taggart was presented with a resolution signed by all of his guests styling him the "Prince and Royal Potentate of Good Fellows." Most legislators then scattered to their homes, but a bipartisan group of about forty people went to Evansville to be guests of Senator F. Harold Van Orman at his hotel there.[73]

Lobbying and Legislative Miscellany

Lobbyists became firmly entrenched in the Indiana General Assembly during the second half of the nineteenth century. By the twentieth century they had evolved into what the Indianapolis *News* described in 1907 as the "system." This "system," according to the *News*, was composed of smooth-talking individuals who represented various "interests" and who spent a great deal of time especially with young legislators. The latter were the "bright-faced" youths who arrived in Indianapolis each biennium anxious to make a record. Lawmaking was "a business they will know a great deal more about after they have been here a week or two," the *News* added. The newspaper warned that unless unwary freshmen were especially cautious they would soon be in the clutches of confidence men. The "system" was everywhere, said the *News*, lurking in all the hotels, restaurants, and other public places. It wore all sorts of clothes and assumed all sorts of shapes. And it was out to "get" those who imagined that the theater tickets, the seats in the private box, and the free dinners were all because the giver regarded the lawmaker as a great man. The newspaper concluded that many

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[71] *Ibid.*

[72] Indianapolis *Times*, March 10, 1925.

[73] Indianapolis *News*, March 7, 8, 1923.

who came to Indianapolis happy in the thought of making a name by doing good for their constituents would return home after the session dissatisfied and unhappy with what they had done. Sometimes, said the *News*, they would return home disgraced.[74]

Harold Donnell explained how this system worked on him through the oleomargarine lobby in 1927. Donnell arrived fresh from North Vernon determined to push legislation protecting dairy farmers against competition from producers of oleomargarine. "How would you like to have a hundred dollar suit?" "How would you like to stay at the Columbia Club?" These were two of the offers Donnell specifically remembered that oleomargarine producers made to him. Donnell found the pressure almost unbearable. "I left there [after two sessions] because I thought I would have to compromise with my morals," he said.[75]

Railroads were the most frequent target of anti-lobbying action because they wielded enormous influence through the distribution of free passes. In 1905 the Senate even passed a bill that would have made it illegal for any public official to accept a pass, but the measure died in the House.[76] A senator from the 1890s, identified only as "one of the old-timers," recalled how experienced legislators were bribed by one railroad lobbyist. "I remember when a good man up at Hammond had a street railroad bill that he was anxious to have passed," the senator said. Whenever he or his cohorts needed a little money, they would telegraph the man that his bill was in danger and down he would come to Indianapolis. "Then we would have a game of poker and he would lose a couple of hundred," said the old-timer. "His bill would be safe for a few days after that." The senators worked this ploy several times, but there was a limit. The man from Hammond finally told them to forget the bill because he needed a little money to build the road with and he could not spend it all getting a franchise from the legislature. "O, those were the happy days," concluded the old-timer.[77]

At almost every session both houses considered resolutions similar to one adopted by the House in 1891 that forbade lobbyists to communicate with members on the floor.[78] Such actions were never effective, however, as the press was filled with accounts of lobbyists jamming the floors of both houses during every session. Only one major bill passed during the era specifically aimed at controlling lobbyists. In 1915 the General Assembly mandated that

> . . . any person, firm, corporation, or association, or any officer or employe of a corporation or association acting for or on behalf of such corporation or association, who directly or indirectly employs any person or persons, firm, corporation or association to promote, advocate, or oppose in any manner, any matter pending, or that might legally come before the general assembly or either house thereof . . .

must register their name, address, business purpose, and the exact subject matter of their interest with the secretary of state.[79]

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[74] "Right In Among the Legislators," *ibid.*, January 9, 1907.

[75] Donnell oral history interview, 2nd ms., 84-85, Indiana Division, ISL.

[76] *Senate Journal*, 1905, pp. 289, 1350-55.

[77] Indianapolis *News*, January 9, 1907.

[78] *House Journal*, 1891, p. 296.

[79] *Laws*, 1915, pp. 5-11, quotation, 5.

The act of 1915 was the only major legislation aimed at lobbyists to pass during the first half of the twentieth century. The new law was not immediately effective in forcing them to register, however, as was shown by a House investigation in 1923. The committee reported that a majority of the lobbyists active at that session had not registered. Beyond stating a hope that lobbyists would "comply with the law" in the future, however, the committee made no recommendation.[80] At the 1927 session the press reported that, although the State House was "swarming" with lobbyists during the first week, only five groups were registered. The number who registered increased to thirteen groups during the second week, leading Speaker Harry G. Leslie to note that "we can at least get through the aisles." The speaker then warned his colleagues to beware of "lollipop" lobbyists. Leslie placed a majority of those seeking favors from the General Assembly in this group, men who were ashamed to register with the secretary of state but who still wanted something. "'Lollipop' means 'sucker,'" Leslie concluded, "and if you don't look out, they'll make a sucker out of you."[81]

The act of 1915 also did not improve the manners of lobbyists or reduce their influence. Thus, in 1921 the House prohibited people from congregating inside the rail bounding the floor between 10 a.m. and afternoon adjournments because the number of lobbyists impeded movement and distracted representatives.[82] In 1925 Lieutenant Governor F. Harold Van Orman expelled everyone who "harassed" senators inside the Senate. "The time has come when these lobbyists must be driven from the chamber," Van Orman declared. "I wish it distinctly understood that this warning is final." Van Orman said he acted because lobbyists were "coercing" senators, "calling them out of the room," and even sitting at the desks of members. Senators applauded the lieutenant governor's action and passed a resolution stating that only senators, employees of the Senate, members of the House, newspaper reporters, and "invited" guests would be permitted inside the bar whether or not the Senate was in session.[83]

As the era ended, the "third house" wielded the same enormous influence over legislation that it had since at least the 1850s. In some areas, such as railroads and highways, the influence was often decisive. The lobby's influence would remain enormous during the Great Depression, World War II, and after. During the next era the 1915 law was strengthened in an effort to force lobbyists to register with the secretary of state and to account more precisely for the money they spent to influence legislation. The law never was enforced with total effectiveness, however, and it was not until the 1980s that the act of 1915 was replaced with stronger legislation.

At every session at least one legislator would introduce a bill that addressed a pet peeve. In 1901 the culprit was Representative John A. Bonham of Blackford County. He became upset one night in February when his view was blocked by

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[80] *House Journal*, 1923, pp. 518-19, 677-78.
[81] Indianapolis *Star*, January 8, 13, 1927.
[82] *House Journal*, 1921, p. 182.
[83] *Senate Journal*, 1925, pp. 566-67; Indianapolis *News*, February 5, 6, 1925.

a woman seated in front of him at a theatrical performance. The next morning Bonham introduced legislation to force the removal of hats by women at all public gatherings. "If the women want a favorable report on the woman's suffrage resolution, they had better go slow in their opposition to my hat bill," said Bonham, who was chairman of the House judiciary committee. The bill was indefinitely postponed upon the recommendation of a minority report of the judiciary committee.[84] In 1903 Representative John H. Edwards of Lawrence County sought a remedy in law for his dissatisfaction with one aspect of life in Indianapolis. Edwards' proposal would have prohibited the giving or accepting of a tip by proprietors or employees of hotels, restaurants, and barber shops. The bill was indefinitely postponed after a delegation of waiters and porters visited the General Assembly.[85] In 1907 Victor Oberting, a Roman Catholic who believed in marriage and large families, introduced a bill to provide a common school tuition fund by levying a direct tax on unmarried men. Oberting's bill was also indefinitely postponed.[86]

Representative Taylor I. Record of Posey County introduced possibly the most bizarre bill ever considered by the Indiana General Assembly and certainly the most bizarre almost to become law. A constituent of Record's, Dr. Edwin J. Goodwin of Solitude, authored the bill after he discovered how to "square the circle." Goodwin offered his find to Record for the sole use of the state of Indiana. On January 18, 1897, Record submitted House Bill No. 246, "A bill . . . introducing a new mathematical truth." Section 1 began:

> It has been found that a circular area is to the square on a line equal to the quadrant of the circumference, as the area of an equilateral rectangle is to the square on one side. The diameter employed as the linear unit according to the present rule in computing the circle's area is entirely wrong.

Since an equilateral rectangle was, of course, a square, the first statement made no sense. And there was more. Section 2 contained statements that contradicted elementary geometry as well as contradicting each other:

> By taking the quadrant of the circle's circumference for the linear unit, we fulfill the requirements of both quadrature and rectification of the circle's circumference. Furthermore, it has revealed the ratio of the chord and arc of ninety degrees, which is as seven to eight, and also the ratio of the diagonal and one side of a square which is as ten to seven, disclosing the fourth important fact, that the ratio of the diameter and circumference is as five-fourths to four; and because of these facts and the further fact that the rule in present use fails to work both ways mathematically, it should be discarded as wholly wanting and misleading in practical applications.

The bill concluded with Section 3, which offered as a gift to the state solutions for the trisection of the angle, duplication of the cube, and quadrature of the circle. "And be it remembered that these noted problems had been long since

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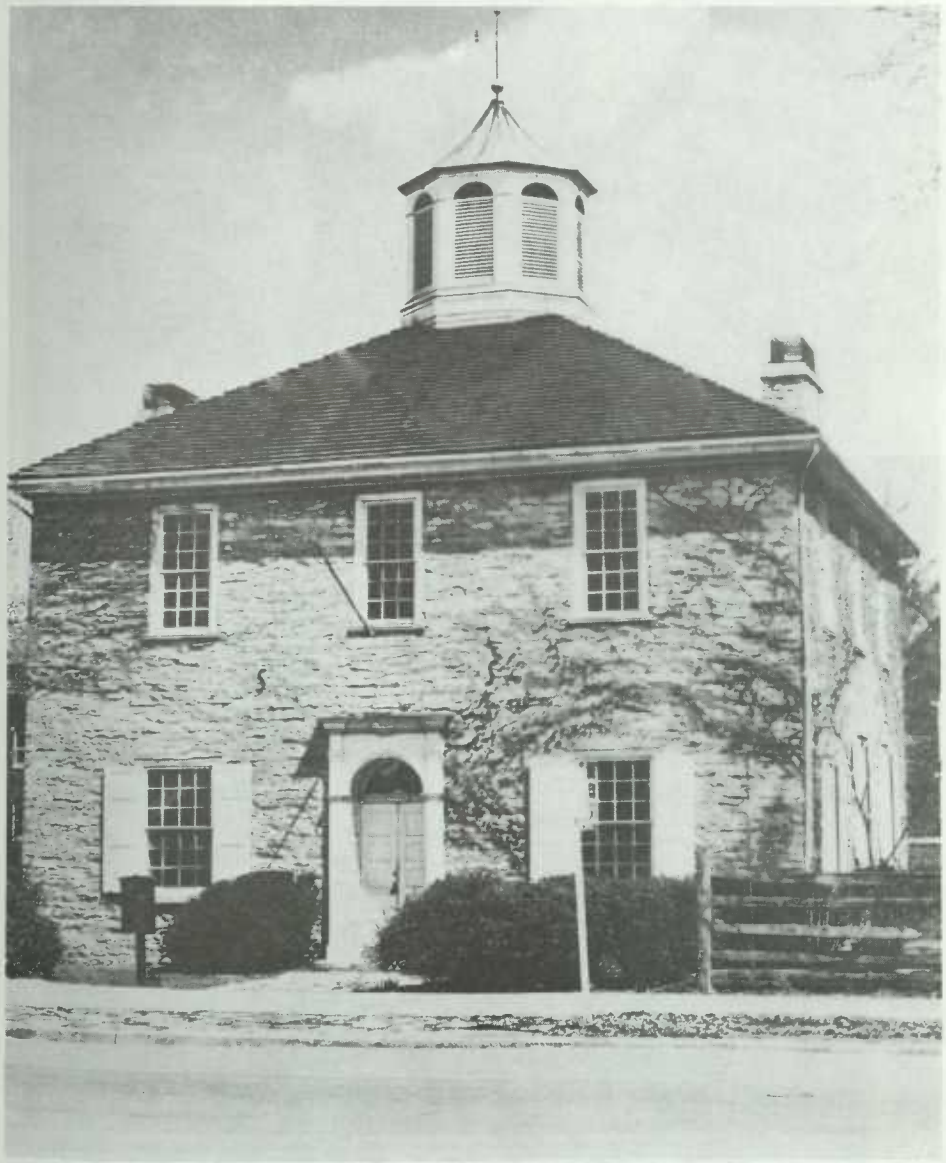
[84] Indianapolis *News*, February 11, 1901; *House Journal*, 1901, pp. 634, 1116-17.
[85] *House Journal*, 1903, pp. 781, 880; Indianapolis *News*, February 19, 1903.
[86] *House Journal*, 1907, pp. 278, 401.

given up by scientific bodies as unsolvable mysteries and above man's abilities to comprehend."

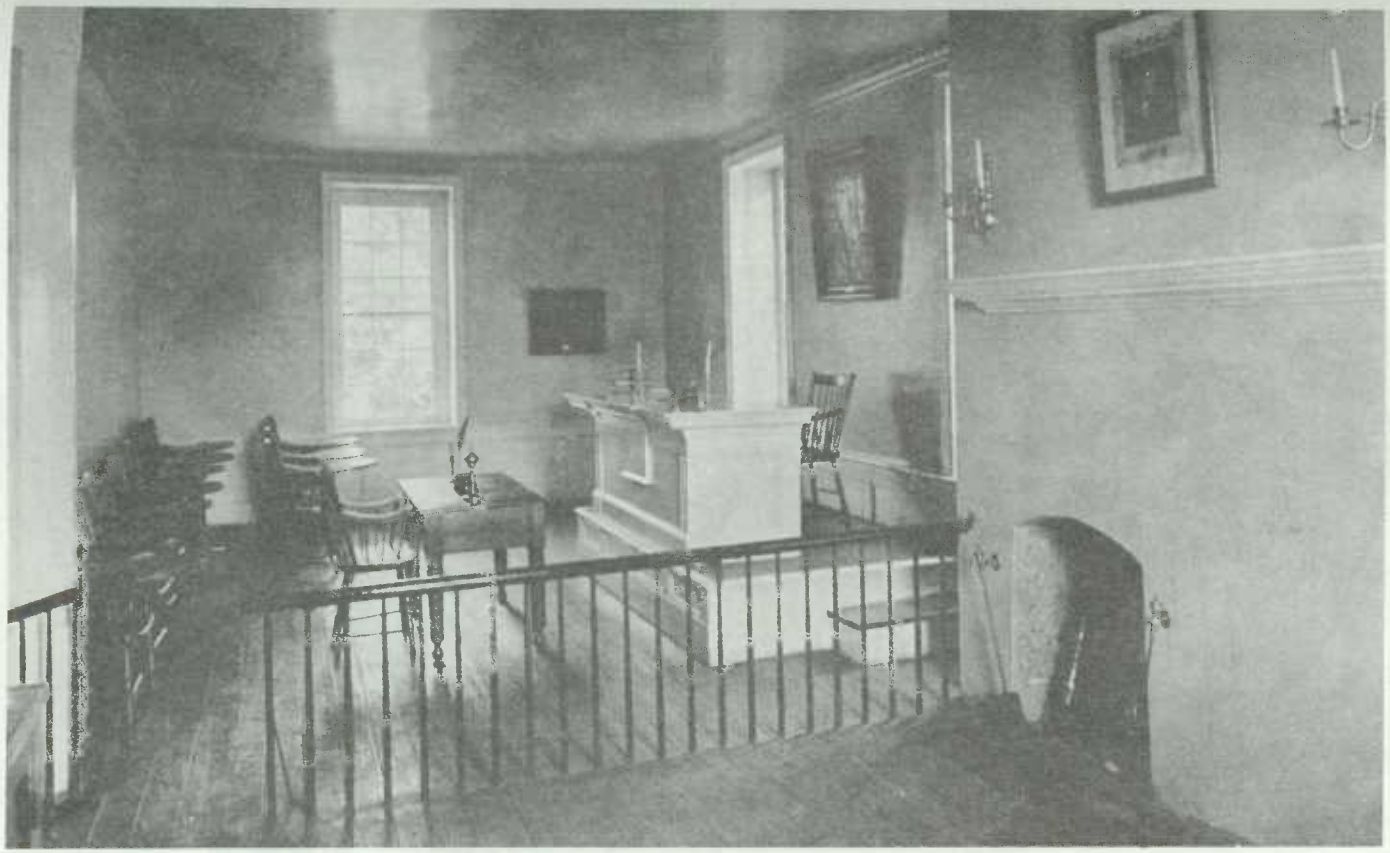
Indiana's "Squaring the Circle" bill followed a circuitous route through the House. First referred to the committee on canals, it passed on to the committee on education. The latter reported it back "with the recommendation that said bill do pass." On February 5, 1897, the House passed the bill 67 to 0. Professor Clarence A. Waldo, a member of the mathematics department of Purdue University, was present in the House that day to lobby for the Purdue appropriation. At first Waldo was greatly surprised to find the House debating a piece of mathematical legislation. Waldo was horrified when he heard a proponent state the following: "The case is perfectly simple. If we pass this bill which establishes a new and correct value of π (pi), the author offers our state without cost the use of his discovery and its free publication in our school textbooks, while everyone else must pay him a royalty." Professor Waldo hurried to the Senate, where the bill was referred to the committee on temperance. After coaching by Waldo, senators voted to postpone further consideration indefinitely. Thanks mainly to this alert professor, who convinced the Senate not to tamper with "unsolvable mysteries . . . above man's abilities to comprehend," the Indiana General Assembly failed to do in 1897 what no one before or since has done, *i.e.*, square the circle.[87]

[87] Indianapolis *News*, February 5, 1897; *House Journal*, 1897, pp. 199, 213, 489, 588-89. For the text of the bill and an explanation of its errors, Petr. Beckmann, *A History of π (pi)* (Boulder, Colo., 1970), 170-73.

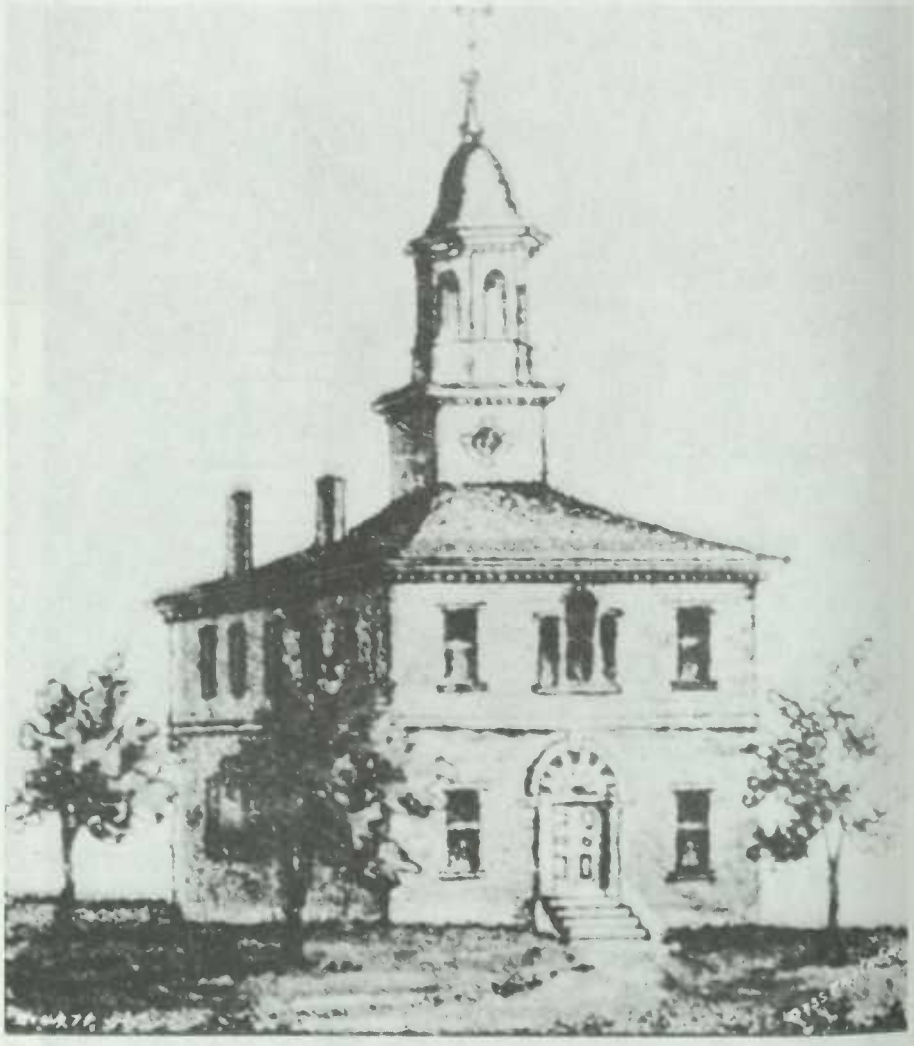


From 1816 to 1824 the Corydon State House was the site of General Assembly sessions. Courtesy Indiana State Library.

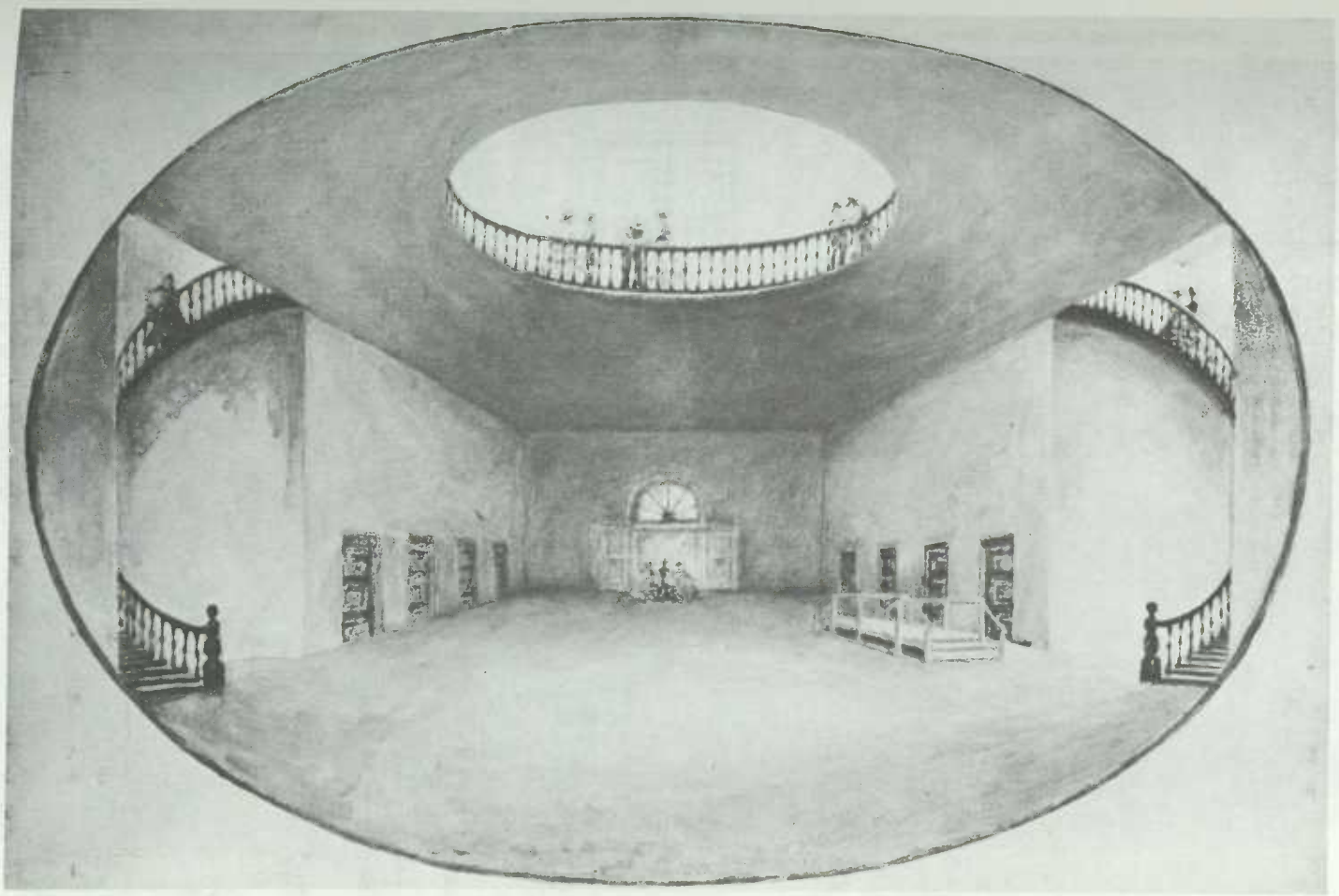
The restored House of Representatives chamber in the Corydon State House, now a state historic site. Courtesy Indiana State Library.



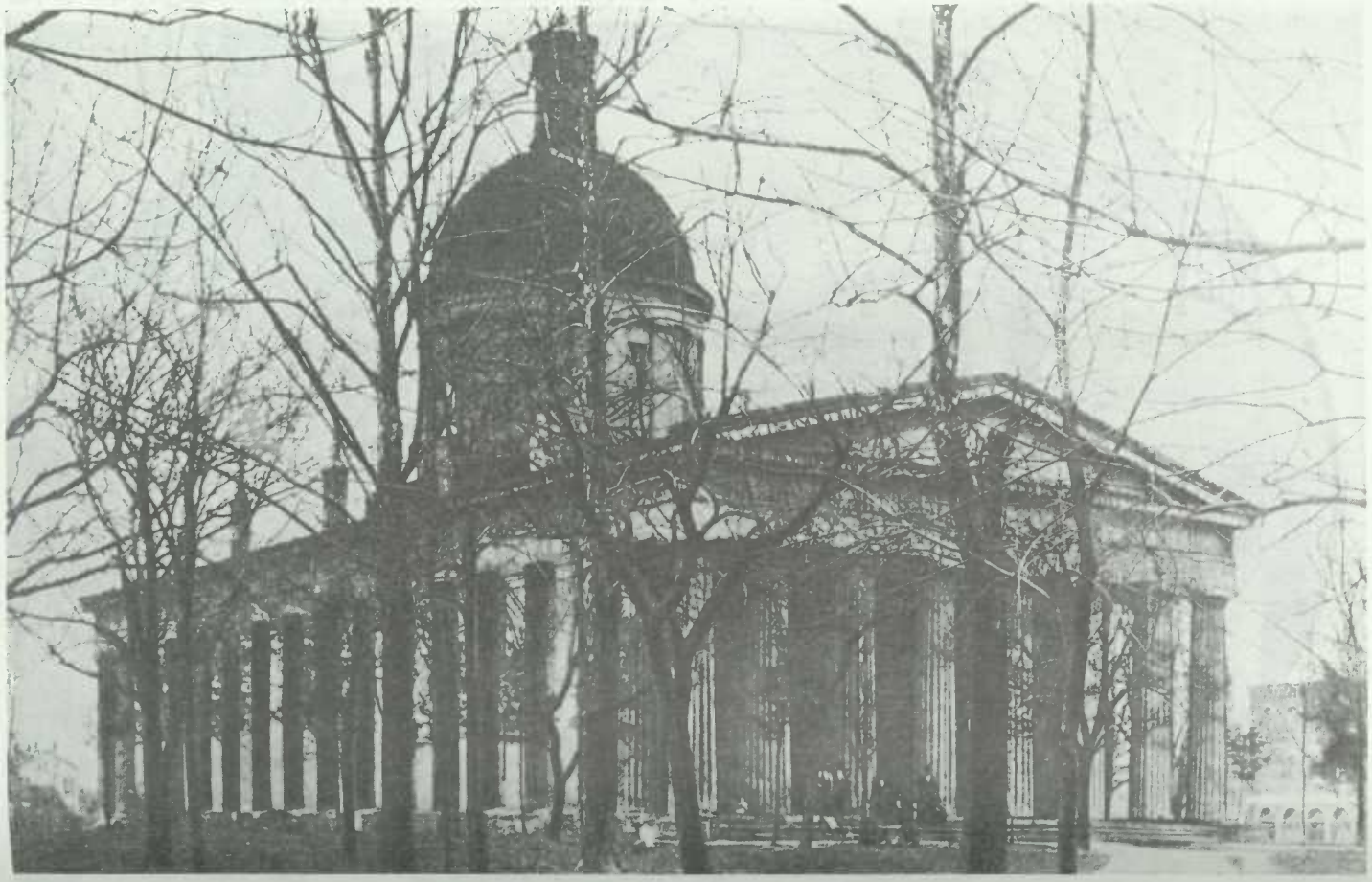
The restored Senate chamber in the Corydon State House, now a state historic site. Courtesy Indiana Department of Natural Resources.



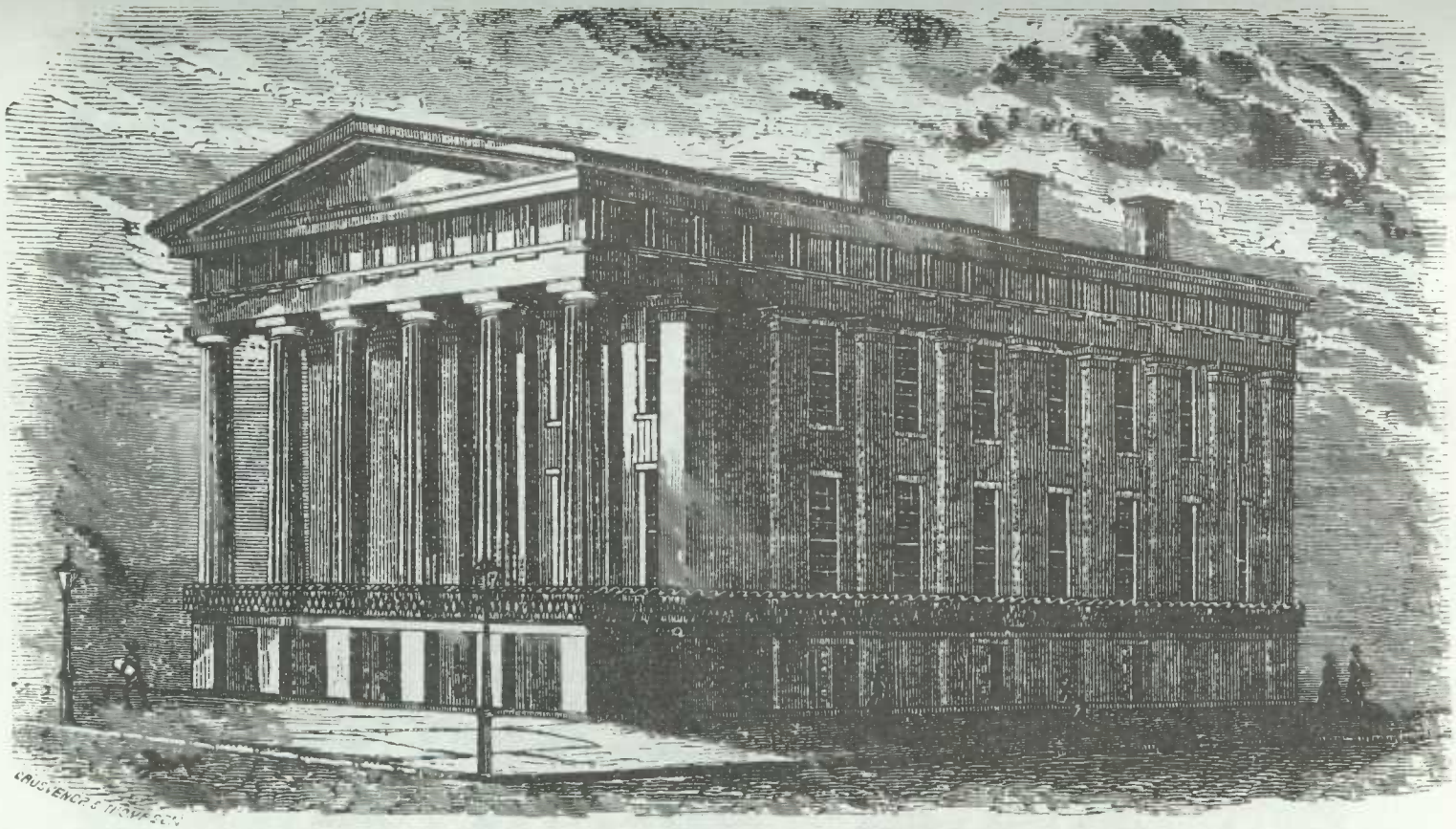
From 1825 to 1835 the legislature met in the first Marion County Courthouse. From a *View of Indianapolis* printed in Baltimore, Maryland, 1854. Courtesy Indiana Historical Society.



This drawing by Christian Schrader shows the interior of the first Indianapolis State House in 1865. Courtesy Indiana State Library.

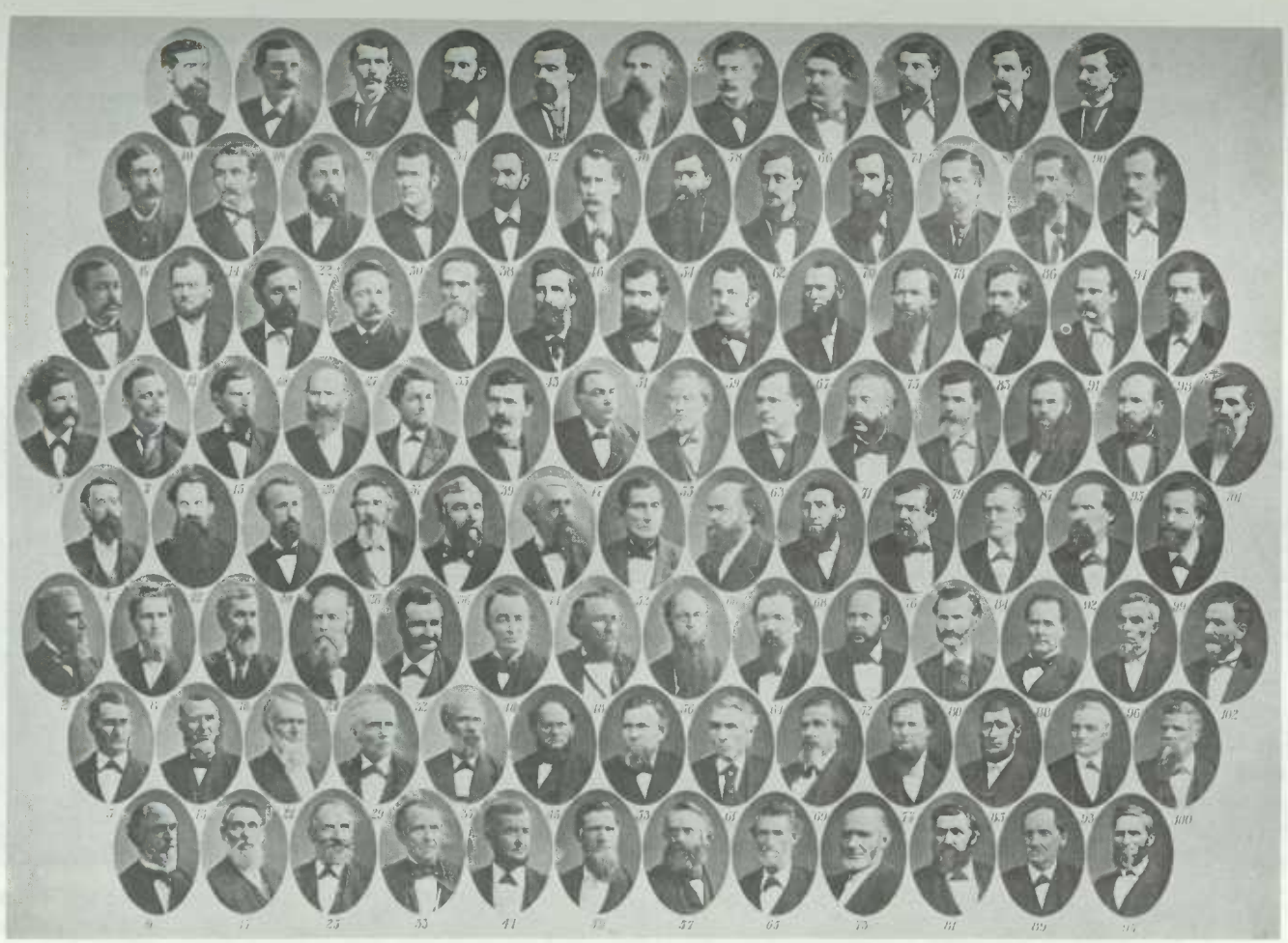


The legislature met from 1835 to 1877 in this first Indianapolis State House. Courtesy Indiana State Library.



The 1850 Constitutional Convention met at the Masonic Grand Lodge Temple (1848-1875) when the General Assembly was in session. This engraving is from *The Indiana Gazetteer* (Indianapolis, 1850).

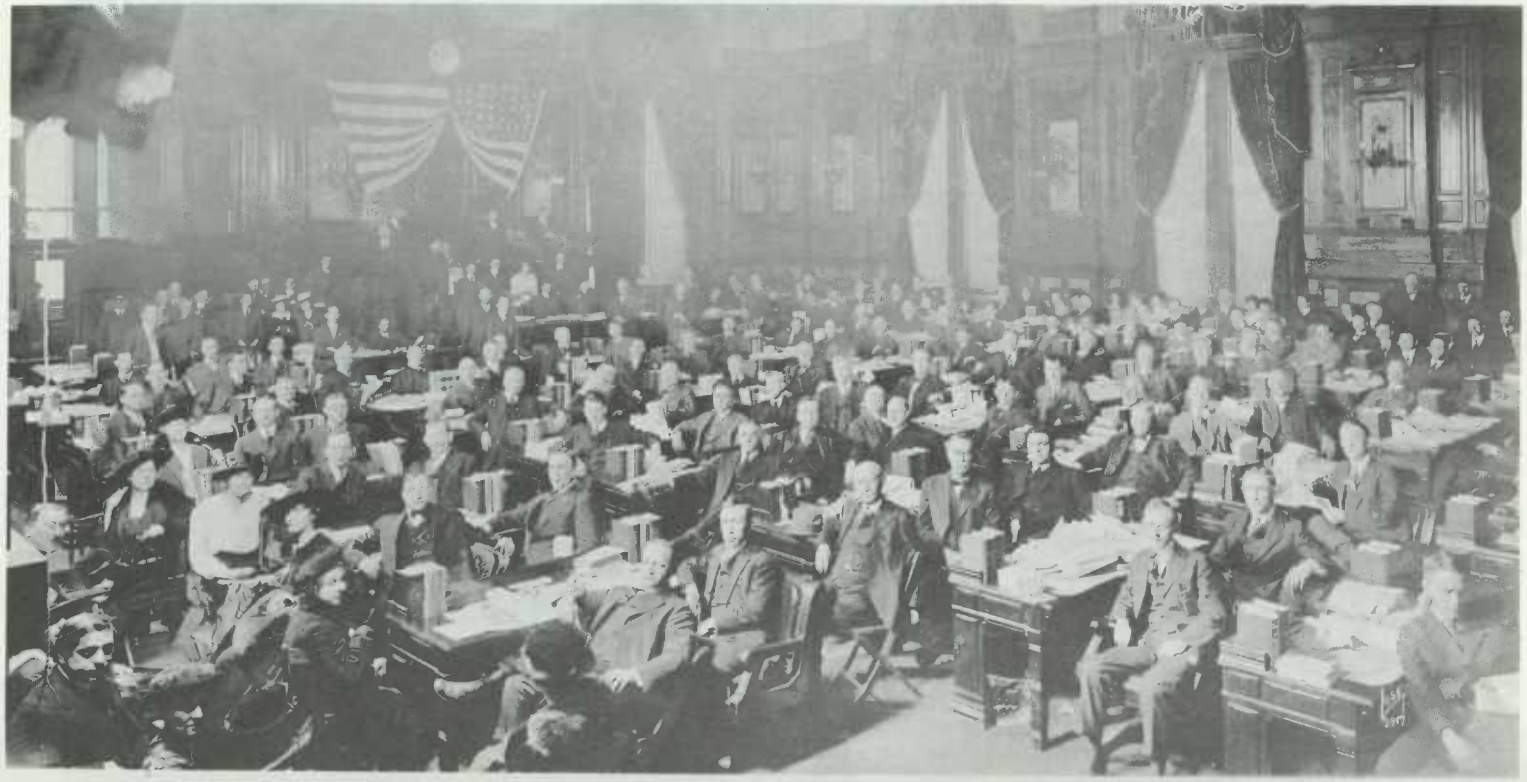
The members of the 1867 Senate; identifications are available with the original in the Indiana State Library.



The members of the 1877 House of Representatives; identifications are at the bottom of the original in the Indiana State Library.

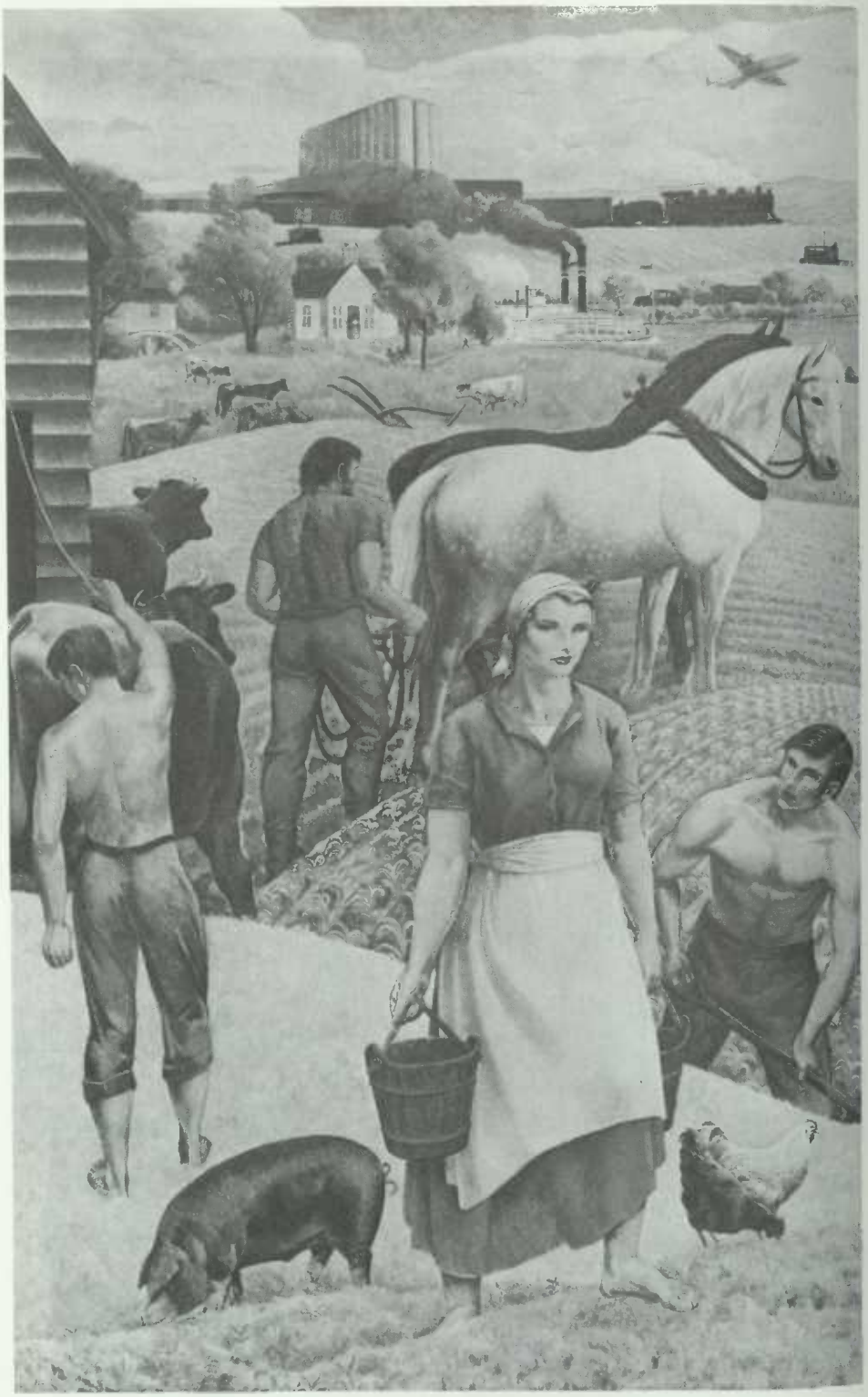
This 1930s photograph is of the second Marion County Courthouse, where the legislature met from 1879 to 1885 while the present State House was being constructed. Courtesy Indiana State Library.

Since 1887 the legislature has met in the second Indianapolis State House. The structure remains relatively unchanged although interior remodeling has tried to expand use and keep offices in touch with modern needs. Courtesy Indiana State Library.

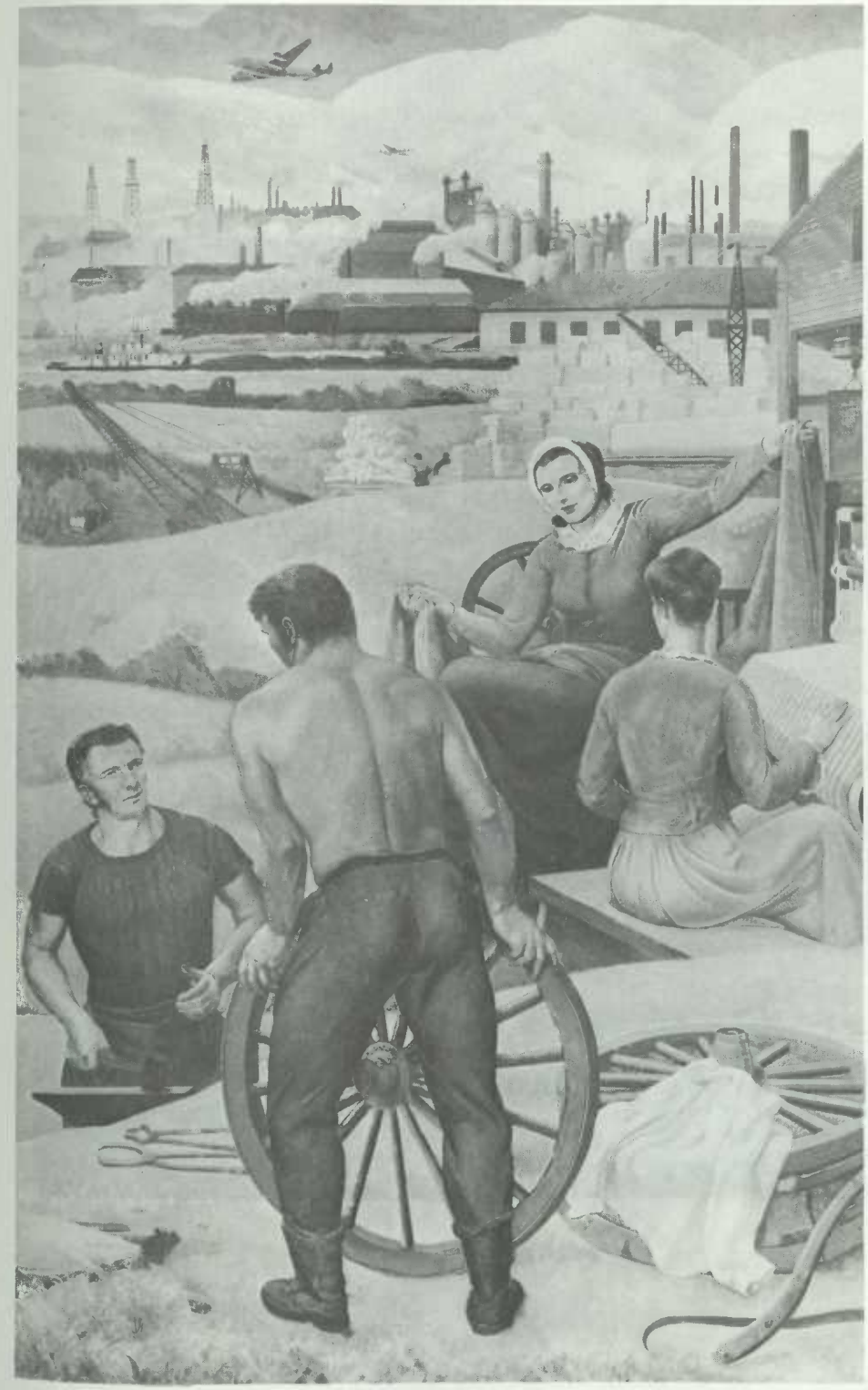


The 1917 House of Representatives in session. Courtesy Indiana State Library.

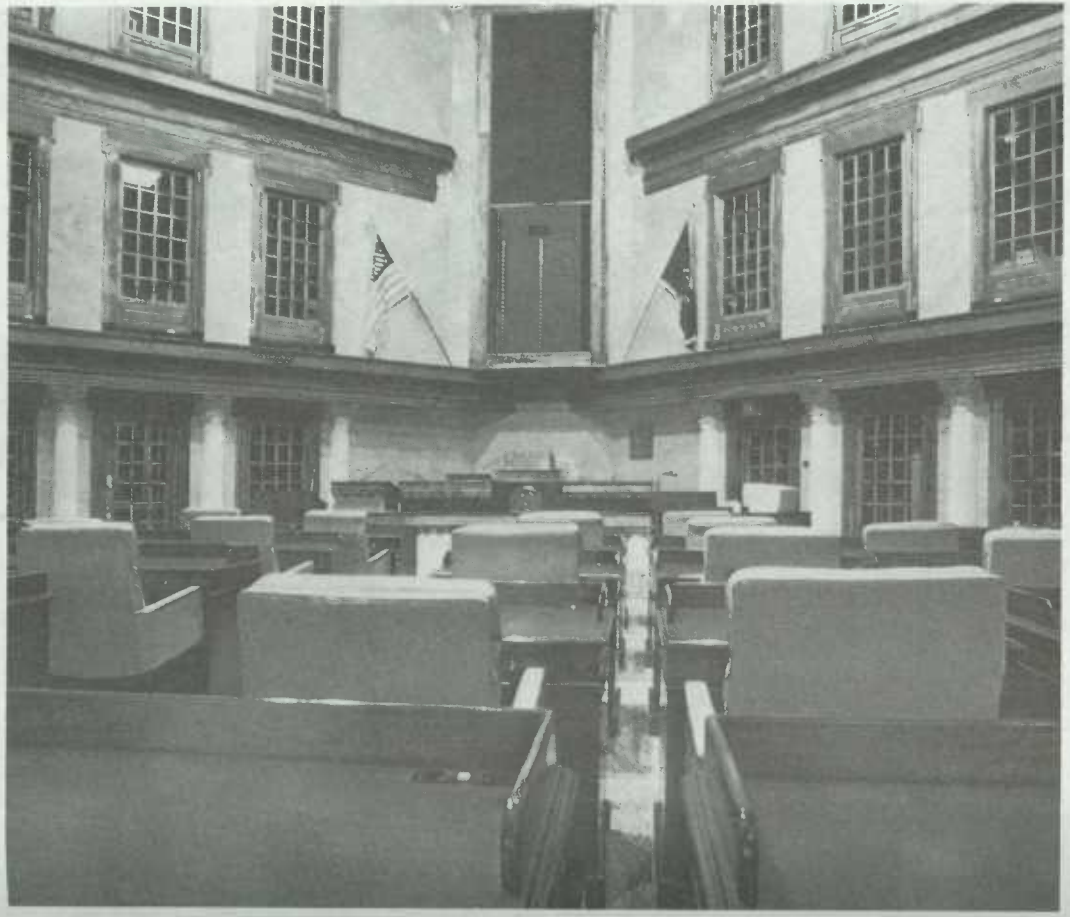
The 1925 Senate in session. Courtesy Indiana State Library.



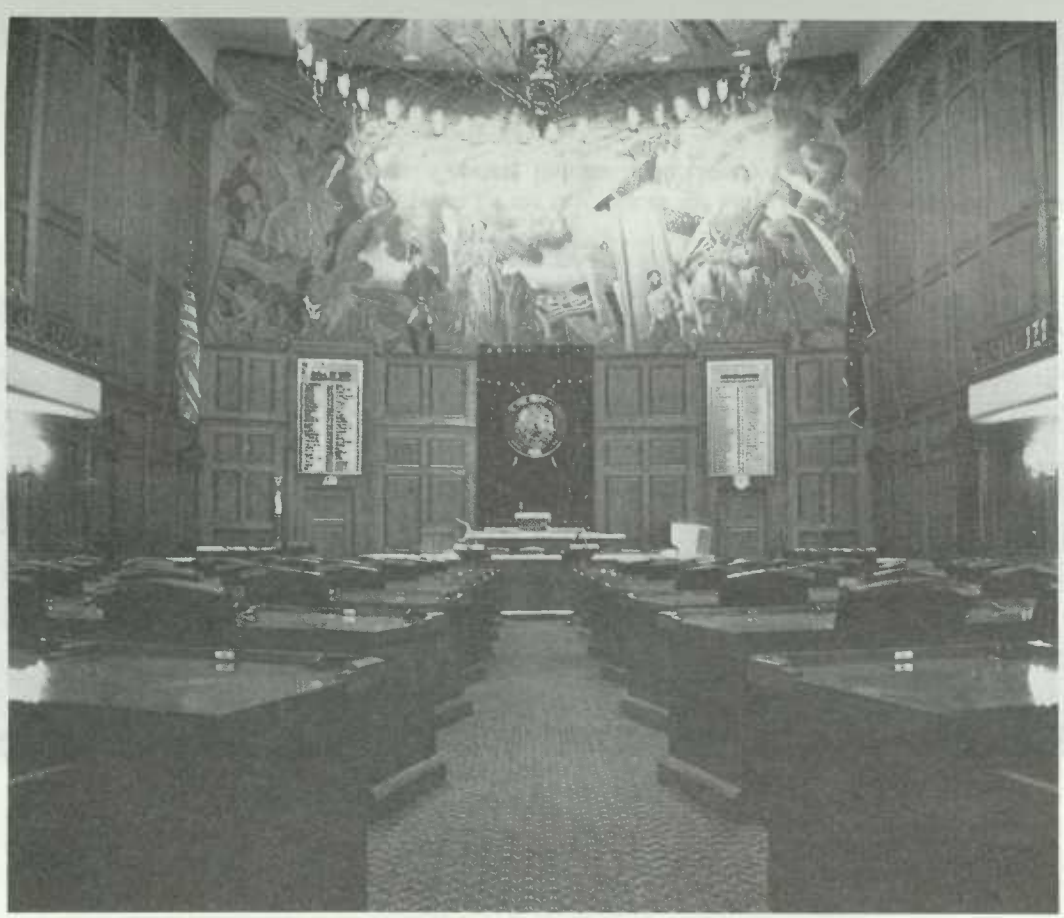
Agriculture, one of the controversial murals by Leon Kroll in the Senate chamber. Courtesy Indiana Historical Society.



Industry, another of the Kroll murals unveiled in 1953 in the Senate chamber and removed in a subsequent remodeling. Courtesy Indiana Historical Society.



The current Senate chamber. Courtesy Indiana Department of Commerce.



The current House of Representatives chamber. Courtesy Indiana Department of Commerce.

This portrait of the 1913 House of Representatives was taken on the east side of the State House and apparently includes staff as well as members. Courtesy Indiana State Library.

Part IV
THE RECENT MODERN PERIOD
1930 to 1970

Chapter 13

The Setting and the Major Issues

The United States Census of 1920 marked the first time in American history that more people lived in urban places (defined by the census as places of more than 2,500 residents) than in rural areas. The movement of population in Indiana from country to city throughout the period 1930 to 1970 reflected this national trend. The state increased from 3,239,000 inhabitants in 1930 to 5,194,000 by 1970. The state's urban population, which stood at 55 per cent of the total in 1930, remained at that point throughout the Great Depression. Then, spurred by World War II and the postwar economic boom, the urban population increased to 60 per cent of the total by 1950 when 2,357,000 Hoosiers out of 3,934,000 lived in cities. The cities held nearly 3 million people by 1960 (2,910,000 or 62 per cent of 4,662,000 people). By 1970, there were more than 3.3 million people living in cities (65 per cent of a total population of 5,194,000). Most of this urban population was located in the eight counties (Marion, Lake, St. Joseph, Allen, Vanderburgh, Vigo, Delaware, and Madison) that contained cities with 50,000 or more residents.

Indianapolis remained the largest metropolitan area, growing from 364,000 inhabitants in 1930 to 476,258 inhabitants by 1960. When the General Assembly allowed Indianapolis to annex almost all of Marion County in 1969, the capital city's population soared to 736,856 in a metropolitan area containing 1.1 million people. The growth of Indianapolis was stimulated by its position as the state capital, by its central location, and by the presence of several major industries. These included the Eli Lilly Company, which became the largest prescription drug manufacturer in the world; the General Motors Corporation, whose Indianapolis facilities included a Chevrolet truck plant and the Detroit Diesel Allison Division; the Chrysler Corporation and the Ford Motor Company, each of which built major parts plants for automobiles and trucks in Indianapolis; the International Harvester Truck Division; and the Western Electric Company, which manufactured telephone equipment for American Telephone and Telegraph.

Lake County, embracing a continuous metropolitan area stretching west from Gary to Whiting in the northwestern corner of the state, was the second most urbanized county. This rich Calumet Region, dominated by the United States Steel Corporation at Gary and the Standard Oil refineries at Whiting, became the most densely populated and heavily industrialized region in Indiana. The cities of Gary (with 178,320 people) and Hammond (with 111,698 people) became the second and sixth largest cities in the state. These two, with East Chicago (57,669), Hobart (18,680), Munster (10,313), Crown Point (8,443), and Whiting (8,137), contained 393,260 people by 1960.

St. Joseph County, including the South Bend-Mishawaka metropolitan area with a combined population of 165,806 in 1960, was the state's third largest urban area. Here, the Studebaker Motor Corporation, the Bendix Corporation, and Drewrys Brewery were major employers. Breweries were also important in Fort Wayne, Allen County (1960 population: 161,776), and in Evansville, Van-

derburgh County (1960 population: 141,543). In addition to the Berghoff Brewery, Fort Wayne's economy was sustained by an International Harvester truck plant; in Evansville the Whirlpool Corporation, which manufactured home appliances, and the Cook's and Sterling breweries were the largest industries.

Industrialized cities having more than 50,000 people but less than 100,000 in 1960 included Terre Haute (Vigo County) with 72,500 and Muncie (Delaware County) with 68,603. Anderson (Madison County), due to the impetus provided by employees of the Delco-Remy Division of the General Motors Corporation, reached over 70,000 inhabitants by 1970.

Collectively, the eight urban counties' share of the state's population between 1931 and 1969 grew from 55 to 65 per cent. They also accounted for nearly all of the state's black population, which increased from 112,000 in 1930 to 357,000 by 1970. As blacks were drawn almost exclusively to the urban counties, so were hundreds of thousands of newcomers who either emigrated from southern or eastern Europe or were the children of such immigrants. Working in the steel mills, the automotive plants, and the breweries, they differed in several fundamentals from the long-time resident, white, Protestants of western European stock who had dominated the state until 1930. Thus, as the new urbanites helped transform Indiana into a modern, industrialized state, they permanently changed the racial and ethnic mix of the state's population.[1]

While Indiana became more urban and less white, Anglo-Saxon, and Protestant during the era, the Indiana General Assembly did not. The legislature, dominated by rural members on the apportionment issue, refused during most of the era to reapportion and so transform itself into a more exact reflection of the people. Between 1931 and 1969, 1,258 individuals served as lawmakers. Of these, 744 lawmakers (59 per cent) represented the eighty-four rural counties containing only 35 to 45 per cent of the state's population. Eighty-six per cent of these rural legislators were born in Indiana, and 61 per cent were natives of the district they represented. Of the 469 rural lawmakers whose ethnicity is known, 180 (38 per cent) were of English ancestry; 175 (37.3 per cent) of German ancestry; and forty-two (8.9 per cent) of Irish ancestry. Seventeen of the rural lawmakers were of French or Spanish ancestry; the ancestors of three came from eastern Europe. Only four were foreign-born (two Germans, one Dane, and one Scotsman). There were no blacks and no Jews from rural Indiana during the period.

The 514 legislators (41 per cent) who represented the eight urban counties differed sharply from their rural counterparts. Three hundred sixty-five (71 per cent) were born in Indiana, but only 48 per cent were natives of the district they represented. Those of English or German ancestry constituted 55 per cent of those 317 urban lawmakers whose ethnicity is known. There were forty-one Irishmen (13 per cent of the urban lawmakers and fully half of the Irishmen

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[1] Population figures derived from "Population of States by Sex, Race, Urban-Rural Residence, and Age: 1790 to 1970," *Historical Statistics of the United States, Colonial Times to 1970* (2 vols., U.S. Bureau of the Census, Washington, D.C., 1975), Bicentennial Edition, 1:27; *1980 Census of Population* (U.S. Bureau of the Census, Washington, D.C., 1982), Vol. 1, *Characteristics of the Population*, Chapter A: Number of Inhabitants, Part 16 (Indiana), 22-25, 33.

known to have served); twenty-eight legislators were of Slavic or eastern European descent; and all twenty-one blacks (6.8 per cent of the urban lawmakers whose ethnicity is known). Twelve of the urban lawmakers were foreign-born, including three Czechs, two Italians, and one each from Poland, Hungary, Serbia, Russia, England, Wales, and Germany. All ten of the Jews who served during the era were also from urban districts.

Thirty per cent of the rural legislators (224 persons) were Methodists, while 111 Disciples of Christ, 98 Presbyterians, and 46 Baptists constituted an additional 34 per cent of the total. The remainder adhered mostly to the Lutheran, Episcopalian, or Congregational churches, with a scattering of Unitarians, Christian Scientists, and various other denominations. Fifty rural legislators (6.7 per cent) were Roman Catholic. By contrast, 127 Roman Catholics (25 per cent) represented urban districts. Other denominations with thirty or more adherents among urban lawmakers included Methodists (110), Presbyterians (73), and Baptists (30). Thirty-five per cent of the rural lawmakers (258 individuals) farmed while serving during these years, as opposed to only nineteen farmers from urban counties. One hundred forty-four of the urbanites (28 per cent) practiced law as contrasted with 157 (21 per cent) of their rural counterparts. Fifty-eight per cent of the rural lawmakers were Freemasons; 40 per cent of those from cities belonged to the order. Thirty-five of the forty-two women who served between 1931 and 1969 came from urban districts (nearly 7 per cent of the total number of urban legislators). Thus, a "representative" rural member was a Protestant, a Freemason, a farmer, and a Republican while a typical urban member was a Catholic, a lawyer or laborer, a union supporter, and a Democrat.

By party breakdown, 51 per cent (641 individuals) of the total number of legislators who served during the era were Democrats as opposed to 615 Republicans. The Democrats built their overall majority in the eight urban counties from which 303 Democrats (59 per cent of the urban total) served as opposed to 211 Republicans. In the rural counties, Republicans outnumbered Democrats 404 to 338 (55 per cent to 45 per cent). This Republican dominance of rural counties was especially important in measuring overall Republican strength since rural legislators tended to enjoy longer tenures than urban members. For example, 585 of the 744 rural legislators served only in the House of Representatives, and of these 219 (37 per cent of the rural House members) served only one term. By contrast, 420 of the 514 urban legislators served only in the House, with 244 of them (58 per cent) serving only one term. Thus, representatives from rural counties where Republicans dominated were nearly twice as likely to serve more than one term in the General Assembly than representatives from urban counties where Democrats were ascendant.[2]

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[2] One legislator, Merrett R. Monks of Randolph County, served as a Republican from 1949 to 1955 and as a Democrat from 1959 to 1961. Another, Walter L. Lemmon of Clark County, was elected as a Democrat in 1932 but was absent due to illness for the entire 1933 session. The contrast between urban and rural legislators is based upon quantification of the data in *A Biographical Directory of the Indiana General Assembly* (2 vols., Indianapolis, 1980, 1984), Vol. 2, *1901-1984*.

The political fortunes of the parties shifted during the period. In the 1930s Democrats had absolute control of state government. In the early and late 1940s Republicans controlled the General Assembly while Democrat Henry Schricker was governor. In the 1950s Republicans gained absolute control of state government. The one constant was the increasingly artificial rural representation in the General Assembly, the result of the failure since 1927 to meet the constitutional requirement to reapportion every six years. Representation in the legislature reflected the state as it had been in 1921, a situation hardly peculiar to Indiana. Only with the United States Supreme Court ruling in *Baker* v. *Carr* (1962) would rural Indiana be forced to surrender its ascendancy. Even then, it took two special sessions in 1965 to enact an apportionment that satisfied the requirements of the federal courts. As a result, much of the conflict in the legislature during the era was cast in terms of cities versus the country. One of the most bitterly fought and confusing issues dividing city and country was Daylight Saving Time. The struggle over how to set the state's clocks in the summertime was symptomatic of the deep breach between urbanites and country dwellers as Indiana and the nation passed through the Great Depression, World War II, and the Cold War.

Of these, the Great Depression left the most permanent mark upon state government. At the 1933 session urban-oriented, more liberal Democrats implemented the McNutt revolution and thereby set much of the legislative agenda for the next thirty years. During the 1930s Democratic legislatures put their program in place. During the 1940s and 1950s rural-oriented, more conservative Republican majorities tried to dismantle some of the Democratic legacy, especially social welfare programs which benefited city dwellers most and which many Republicans saw as socialistic and therefore un-American. Programs that could be put to party use, such as the reorganization of executive and administrative agencies of state government, were not abandoned but altered to suit Republican tastes.

Thus, until the 1960s when legislative apportionment became the absolute dominant issue, the Indiana General Assembly struggled in turn with the New Deal and its aftermath, with the Second World War and the postwar economic boom, and with an anticommunist crusade that equated liberal social programs with embryonic Marxism. State control of alcoholic beverages remained a pervasive and time consuming issue. In this latter area the general assemblies between 1931 and 1969 were similar to each of their predecessors since 1851. The major difference, of course, was that "wets" and legal beer, not "drys" and prohibition, had the upper hand.

1933: Legislative Watershed

During every General Assembly since 1816, some Indiana newspaper somewhere has stated that the current session of the legislature was one of the most important ever to convene. From the perspective of 170 years, with few exceptions, such anticipations of greatness proved to be wildly exaggerated. But when the politically independent Indianapolis *Times* said of the 78th General Assembly that "The record, in both volume and importance, exceeds that of nearly all

previous legislatures . . . ," it was right. And when the Republican Indianapolis *News* concluded that "No legislature in the recent history of the state has been more generally condemned and praised . . . ," it, too, was right.[3]

The historical circumstances of 1933 made it exceedingly likely that the session would go down as one of the legislature's most noteworthy. Both the United States and Indiana were in the midst of the Great Depression, the greatest domestic crisis since the Civil War. As a result, Franklin D. Roosevelt swept into the presidency in 1932 and Paul V. McNutt swept into the governorship of Indiana. For the first time in twenty years Democrats assumed control of both the national and Indiana governments at the same time. In 1931 the first General Assembly after the onslaught of the Depression foreshadowed what a return to power by Democrats might mean. In that year the party controlled three fourths of the seats in the Indiana House while Republicans retained the Senate and the governorship. The divided legislature passed the first old-age pension act in the state's history despite dire warnings that "people who are prosperous and honest should not be taxed to support those who have failed and are poor." When Governor Harry G. Leslie vetoed the measure he was sustained in the Senate.[4] Old-age pensions and other measures designed to alleviate Depression suffering had to wait until Governor McNutt and his legislature arrived in Indianapolis in January, 1933.

At noon on January 9 the stage was set, quite literally, for the most spectacular gubernatorial inauguration in the history of the state. A special platform was constructed on the steps of the Senate Avenue side of the State House. At the appointed hour the governor-elect and the outgoing governor appeared flanked by state officials and members of the General Assembly. Seats in front of the platform were reserved for 500 of the party faithful while a crowd of 7,500 to 10,000 enthusiasts spread over Senate Avenue onto West Market Street. The ceremony was broadcast live over a statewide radio hookup while Movietone and Pathe News filmed the event for theaters all over the state and the nation. Novelist Meredith Nicholson was in charge of arrangements, and he overlooked nothing. City and state police, along with the National Guard, maintained order. The National Guard band opened and closed the event with flourishes; in between, martial airs were performed by the American Legion band. R. Earl Peters, state chairman of the Democratic party, acted as master of ceremonies. A Jewish rabbi, a Methodist minister, and a Catholic priest offered separate invocations. Following a trumpet flourish, the chief justice of the Indiana Supreme Court approached the microphone to administer the oath of office to the star of the day, Paul V. McNutt.[5]

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[3] Indianapolis *Times* and Indianapolis *News*, March 7, 1933.

[4] Quotation, Indianapolis *Times*, January 15, 1931; *Senate Journal*, 1931, pp. 348, 892-94; *House Journal*, 1931, pp. 866, 917. The 1931 old-age pension act was the culmination of a nine year crusade by the Fraternal Order of Eagles and Senator James J. Nejdl of Lake County, a member of the Eagles. Nejdl threatened to resign from the Republican party unless the Senate passed the measure. Indianapolis *Star*, February 3, 1931; Indianapolis *Times*, March 3, 1931.

[5] Indianapolis *Times* and Indianapolis *News*, January 9, 1933; Indianapolis *Star*, January 10, 1933.

No governor of Indiana and few governors of any state have been as suited by temperament, appearance, and circumstance to assume the role as was McNutt on that day. A professor at the Indiana University School of Law since 1917 and dean after 1925, he had served as state commander of the American Legion in 1927 and as national commander in 1929. "Nothing within the gift of the people of Indiana is a higher honor than to lead the American Legion," McNutt stated immediately after his election as state commander in 1926. That was six years before he sought the highest political office in the state. Radio and motion pictures were well-established media by 1932 when McNutt became the first gubernatorial candidate to utilize both during a campaign. As his inaugural ceremony indicated, he would continue to use both to keep popular support during his tenure. McNutt's oratory, sharpened by years of classroom teaching and Legion politics, was variously described by the press as "sonorous" and "impassioned." He physically dominated any public forum with his six-foot frame, his head "crowned with a mass of silver-white hair." One biographer, I. George Blake, who thought McNutt's facial features were best described as "those of a Greek god," noted that others were reminded of "a movie matinee idol." He was, by all accounts, one of the handsomest men in American public life.[6]

In his inaugural, McNutt described patriotism as a wartime feeling engendered by "the blare of martial music, the sound of marching feet, and the rumble of the caisson." But such a feeling should not be reserved only for periods of armed conflict, said McNutt. Since the Depression "is as grim and as real as any war," it called for "the same unselfish service, energy, intelligence, and solidarity." He added: "It is possible to know the truth without fear, to meet a crisis with indomitable courage." The times called for government "to make those adjustments which guarantee to every man the right to live as a normal human being." In comparing the Depression to war and stressing that the people must not panic out of fear for the future, McNutt anticipated the two great themes of Franklin Roosevelt's first inaugural nearly two months later. Almost everyone who heard him had no doubt that McNutt had the courage and intelligence necessary to save Indiana with the "adjustments" that he planned. His audience included hundreds of thousands of Hoosiers who heard him on the radio in the comfort of their homes. It included other hundreds of thousands (perhaps millions), in Indiana and elsewhere, who saw and heard him a few days later in the darkness of their local theater. His most attentive listeners, however, were the predominantly Democratic members of the 78th General Assembly who sat immediately in front of him.[7]

Thus began the most powerful governorship in Indiana during the twentieth century. Only Oliver P. Morton, Indiana's Civil War governor, could challenge

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[6] I. George Blake, *Paul V. McNutt: Portrait of a Hoosier Statesman* (Indianapolis, 1966), Legion quotation, 45, description of McNutt, 124. See also Robert R. Neff, "The Early Career and Governorship of Paul V. McNutt" (Ph.D. dissertation, Indiana University, 1964).

[7] Indianapolis *Times*, January 9, 1933; Blake, *Paul V. McNutt*, 125-28.

McNutt for the title of most powerful governor in the state's history. Both were products of the crises which propelled them to power. But there were important differences in the ways that each became powerful. Morton achieved near dictatorial status without the sanction of law and, like Lincoln, walked the edge of unconstitutionality. Morton succeeded because of the exigencies of war and because his actions were ratified by the electorate in the 1864 gubernatorial election. Morton also succeeded in spite of the 43rd General Assembly, which fought his every move with all the means at its command. McNutt, on the other hand, became powerful primarily because he was ambitious to become president of the United States and his personality was peculiarly suited to exploit modern public relations techniques. He was the first governor of Indiana who met daily with the press and held press conferences twice each day when the legislature was in session.[8] McNutt also succeeded because of the exigencies produced by economic crisis. Most importantly, McNutt succeeded with unquestioned legality because his program was implemented with the full cooperation of the 78th General Assembly, which passed his entire agenda.

The people of Indiana elected ninety-one Democrats and only nine Republicans to the state House of Representatives in 1932.[9] Three fourths of the members were born in Indiana, fifty-two of them in the district they represented. Forty per cent of those whose ethnicity is known were of German extraction; one fourth were of English ancestry. In addition there were five Irishmen, four of French or Italian ancestry, two blacks, one representative of Slavic descent, and one Jew. The presence of these minorities contrasted sharply with the ethnic mixture of the Republican dominated assemblies of the 1920s. Three of the Democrats were foreign-born: John F. Dahling (White County) and Martin T. Krueger (La Porte County) were born in Germany; Morris W. Hanson (Steuben County) was born in Copenhagen, Denmark. Henry J. Richardson, Jr., of Indianapolis and Robert L. Stanton of East Chicago were the two blacks, the first elected to the General Assembly in the twentieth century. Both were born in the South in 1902 (Richardson in Alabama and Stanton in Arkansas), and both lived in Indiana during the 1920s. Bess Robbins Kaufman of Indianapolis, the Jewish member, was the only woman to serve at the session.

Forty-five of the representatives in 1933 belonged to one of the four Protestant denominations that had dominated most general assemblies (fifteen Methodists, eleven Presbyterians, eleven Disciples of Christ, and eight Baptists). There were fourteen Roman Catholics, the largest number to serve at the same session up to that time. There were nine Lutherans, four Episcopalians, and a scattering of other denominations including one Mormon (Morris W. Hanson). Farming (25) and law (18) were the most widely represented occupations. There were also a few bankers, businessmen, and merchants, two veterinarians, and two dentists.

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[8] Blake, *Paul V. McNutt*, 167.

[9] One of the Democrats, Charles J. McCullough of Clay County, died three weeks after the election and no one was elected to replace him. Another Democrat, Walter L. Lemmon of Clark County, was absent the entire session due to illness. So the Democrats' working majority was 89 to 9, the margin by which most of McNutt's program passed. *House Journal*, 1933, pp. 6-7, 447.

Sixty-seven of the members had attended college; eighteen had taught school. Seven were members of a labor union (the largest number in any session up to that time), fourteen had served in World War I, and seventeen were members of the American Legion. At least forty-six of the representatives were Freemasons.

Sixty of the representatives in 1933 had no previous legislative experience, and thirty-seven of these served only at that session. Thirty-five of the sixty were appointed later to state executive or administrative positions and nine received federal appointments to state level positions.[10] The two dentists at the session were typical in that neither had previous political experience, neither served more than two terms, and both received patronage jobs. E. Millard Dill (Hendricks County) served his one term as a McNutt loyalist and was rewarded with appointment as superintendent of the Indiana Boys' School at Plainfield. He headed the Boys' School from 1933 to 1945, years during which he became a nationally recognized authority on juvenile delinquency. He authored two books on the subject (*Juvenile Delinquency* in 1935 and *Delinquency on the March* in 1944). Dill also served as a delegate to the White House Conference on Children in a Democracy and as a member of the United States Children's Bureau Advisory Committee on Training for Socially Maladjusted Children. The other dentist, Robert L. Stanton (a black from Lake County), was appointed to the Indianapolis office of the Resettlement Division of the United States Department of Agriculture after his legislative service ended in 1935.[11]

Other members of the session included Earl H. Crawford of Wayne County, chosen by McNutt to be speaker. Crawford was rewarded for his service with various state appointments, including that of chairman of the state Highway Commission in 1937. Lenhardt E. Bauer of Terre Haute was the youngest member at age twenty-two. The oldest was Martin T. Krueger of Michigan City at age seventy-nine. Thomas A. Hendricks of Indianapolis was a descendant of the nineteenth century governor and vice-president of the same name. James V. Kent, Jr., of Clinton County, was one of the more radical members of the session. In 1933 Kent described his political affiliation as "Progressive Democrat." At the 1935 and 1937 sessions Kent was a self-described "Socialist-Democrat."[12]

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[10] Many legislators who went along with whatever McNutt wanted were rewarded immediately with state jobs. By primary election day in 1934, more than thirty members of the 1933 General Assembly had choice jobs such as superintendent of a state institution, director of a state agency, or an appointment to the National Recovery Administration program in the state. After the 1933 session adjourned, McNutt created the Hoosier Democratic Club composed exclusively of state employees. Commonly known as the "2 percent club," the organization collected 2 per cent of each member's paycheck. Workers who did not pay did not keep their jobs. By 1934, the governor was collecting almost $10,000 a month through the club, income collected and controlled by McNutt to further his political career. See James H. Madison, *Indiana Through Tradition and Change: A History of the Hoosier State and Its People, 1920-1945* (Indianapolis, 1982), 98-99; Indianapolis *News*, March 15, 17, 1934.

[11] Data on the 1933 House from *BD* 2. See also Dill and Stanton files, Centennial History of the Indiana General Assembly, Archives Division, Commission on Public Records, Indiana State Library, Indianapolis. In 1940 Dr. Stanton established his practice in Fort Wayne, a practice he continued until his retirement in 1983. He was never active politically after the 1930s.

[12] Crawford, Bauer, Krueger, Hendricks, and Kent files, Centennial History, ISL.

Orrie Sylvester Clark was perhaps the most colorful of the old-line Democrats at the session. Born in Warren County, Indiana, in 1856, Clark had been a cowboy and ranch hand in the West during the late 1870s and early 1880s. Although he had been a loyal Democrat since establishing himself as a banker at Attica, Indiana, in the 1890s, he had not held public office for almost forty years. Doubtless the only Oklahoma Sooner ever to serve in the Indiana General Assembly, in 1933 Clark described his life for the State Library:

> A Cow-Puncher in the early history of the old Indian Territory, and No Mans Land, now Oklahoma, also in the Pan Handle of Texas, in New Mexico, and Colorado—made the run into Oklahoma in 1889—since, for over 40 years in banking business—now State Representative from Fountain County, Indiana.

Clark's explanation of how he won his seat applied to several other one-term Democrats who won in 1932: "owing to the land-slide I was fortunate enough to slip in by a 1500 majority in this county, generally a republican county." Clark also authored books and articles on the history of Fountain County and a biography of a western gunslinger, *Clay Allison of the Washita.* He stated unequivocally in 1933 that "I am no love story writer . . . —my speciality is writing history—the older the better." Clark said he preferred history because "there is no one living that is as old as I am, therefore there is no one that can argue or dispute any stories or dates that I may tell."[13] Though an atypical individual, Clark's Indiana political career was typical of many older Democrats who had been in the minority for a generation. They served in the legislature only in 1933 and were instrumental in implementing the McNutt revolution.

Due to a resignation and a death, twenty-seven state senators were elected in 1932 and all but one were Democrats. None of these newcomers had served previously in the Senate, although fifteen had served in the House. That left twelve freshmen senators, all Democrats, with no previous legislative experience. The holdovers included seventeen Democrats and six Republicans, giving the Democratic party a 43 to 7 majority at the 1933 session.[14] The senators included fourteen lawyers, ten farmers, and four newspaper editors. Fifteen of these "deserving Democrats" were appointed later to state level executive or administrative posts; five were appointed as federal administrators on the state level. One member, Claude R. Wickard of Carroll County, joined the United States Department of Agriculture in June, 1933, and was appointed by Franklin D. Roosevelt as secretary of agriculture in 1940. Thirty-six senators had attended college, six belonged to the American Legion, and five were veterans of World

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[13] Clark file, *ibid.*

[14] The data on the 1933 Senate were derived from material in *BD* 2. Forty of the senators were born in Indiana, four each came from Illinois and Ohio, and one each from Wisconsin and New York. Twenty-nine of the senators were natives of the district they represented. Twenty-five senators (78 per cent of those whose ethnicity is known) were of German or English ancestry. There were, in addition, four Irishmen, one man of Scotch-Irish derivation, one of Italian extraction, and one Jew. There were no blacks and no women. There were nine Methodists, nine Presbyterians, seven Roman Catholics, five Disciples of Christ, and four Baptists. Twenty-six of the senators were Freemasons.

War I. The Legionnaires included C. Anderson Ketchum of Decatur County, chosen by McNutt to be president *pro tempore*. A senator since 1927, Ketchum was rewarded for his loyalty to the McNutt program by appointments to successive state posts whenever a Democrat was governor between 1933 and 1952. He was secretary of the state Board of Tax Commissioners from 1933 to 1938; state budget director from 1938 to 1945; and head of the audit and control division of the state Highway Commission from 1949 to 1952.[15]

Isaac N. Trent of Muncie, the only Republican elected to the Senate in 1932, had served five terms in the House and was, at age seventy-eight, the oldest senator. Wickard considered the Muncie physician the dean of the Senate and the man to look to for advice. Trent and Wickard co-authored a veterinary bill aimed at preventing the sale of "quack" remedies for animal ills. The bill was opposed by many farmers and veterinarians, and went nowhere.[16] The Wickard-Trent proposal did represent, however, the only effort by a member of the Republican minority to initiate legislation in a body dominated by Democrats.

Two of the freshman senators began distinguished political careers at the session. Henry F. Schricker of Starke County advanced to the lieutenant governor's office in 1937, and to the governor's office in 1941. He served a second term as governor beginning in 1949. J. Walter Vermillion, an Anderson attorney, held his Madison County seat until his death in 1949. Vermillion's sixteen consecutive years in the Senate was one of the longest tenures of the era and made him dean of Senate Democrats in the 1940s. As the ranking Democrat on the state Budget Committee from 1937 to 1948, Vermillion became one of the more powerful men in state government. Vermillion advanced politically because he was an absolute McNutt loyalist. Another loyalist, Jacob Weiss of Indianapolis, the only Jewish member in the Senate, was chosen by McNutt in 1935 to succeed Ketchum as president *pro tempore*.[17]

For 117 years prior to 1933, the laws of the state of Indiana originated almost without exception with legislators who had met in seventy-seven regular sessions and a few special sessions of the General Assembly. It was true that the subject matter of proposed bills often came from diverse sources. Most governors had programs and proposals that they wanted implemented by law. Lobbyists for various interest groups and constituents with pet projects were other sources. But drafting bills and steering them through the legislature were exclusive prerogatives of lawmakers elected by the people for that purpose. True, lawmakers frequently created special commissions to study a problem and recommend legislation to a subsequent General Assembly. Beginning in 1907 specialists with the Legislative Reference Bureau played an increasingly important role in the actual drafting of bills, but almost always at the instigation of a

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[15] Ketchum file, Centennial History, ISL.

[16] Dean Albertson, *Roosevelt's Farmer: Claude R. Wickard in the New Deal* (New York and London, 1961), 57; Trent file, Centennial History, ISL.

[17] Schricker, Vermillion, and Weiss files, Centennial History, ISL.

legislator or group of legislators who wanted expert help, or at the instigation of a legislatively sanctioned commission.[18]

This traditional legislative process was abandoned when McNutt took office. The *Laws of Indiana* for 1933, consisting of 292 chapters encompassing 1,257 pages, originated almost exclusively with a small group of McNutt's advisors labeled "the Inner Circle" by the press. They were led by Frank McHale, a Catholic banker from Logansport. McHale met the future governor in the American Legion during the 1920s and devoted himself ever after to promoting McNutt's political career. Virgil Simmons, a Bluffton lawyer and 4th district Democratic chairman, also belonged to the "Circle." Simmons had legislative experience, having served in the House at the 1931 session. Other members included: Bowman Elder, a prominent realtor and Legionnaire from Indianapolis; Robert Kiley, a Marion banker; Sherman Minton, a New Albany attorney; and Robert Batton, a Marion attorney. The group's principal draftsmen were Herbert P. Kenney, Sr., and Evan B. Stotsenburg, both former legislators from New Albany.

Between the time McNutt was elected and inaugurated, this inner circle established the "Bill Factory" at the Indianapolis Athletic Club, at Vermont and Meridian streets, about four blocks from the State House. While the legislature met, Kenney supervised the drafting of bills at the Athletic Club. Although neither McHale nor Simmons was a member of the legislature, both were present on the floor of the Senate and House respectively to see that nothing went awry. At 4:30 p.m. each session day, the inner circle met with the presiding officers and floor leaders in McNutt's office to review accomplishments and plan the next day's strategy. Many of the most important bills evolved in this fashion. They were passed as often as not without reference to committees or under suspension of the rules by members who did not know what the bills meant or contained.[19]

The verdict is unanimous among students of the era that McNutt's first legislature operated almost exclusively in this fashion. The Gross Income Tax Act was typical of the process: "The bill embraced over one hundred typewritten pages, and not more than ten members of the legislature . . . had read or studied the measure." In this milieu, I. George Blake concluded, legislators often had

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[18] The one notable exception was Governor Thomas R. Marshall's constitution of 1911. That bill originated with a small coterie of gubernatorial advisors and was then sprung on a compliant Democratic majority which passed it into law. The state and federal courts temporarily ended such lawmaking by executive fiat when they struck down the Marshall constitution in 1912. See above, pp. 331-34.

[19] For analyses of the "Inner Circle," see Indianapolis *News*, March 1, 1933, and Indianapolis *Star*, January 13, 1935. Bowman Elder was treasurer of McNutt's 2 per cent club. Long prominent in state Democratic circles, he met McNutt through the American Legion and was national treasurer of the veterans' group from 1928 to 1933. Representative Roberta W. Nicholson recalled that during her term in 1935 Elder had a notebook with information about the "Achilles heel" of every legislator. It was used, said Nicholson, to get members to vote the way the "power bloc of the McNutt-McHale years" wanted them to vote. Elder refused to let Nicholson see the book when she asked, saying as he "roared" with laughter that the entry on her only noted the Junior League, League of Women Voters, and so on. Nicholson oral history interview, 5th ms., 19, Indiana Division, ISL.

to await publication of the laws "to know what they had actually passed."[20] Senator Claude Wickard substantiated these views. The future secretary of agriculture served only at the 1933 session. Shortly after coming to Indianapolis he moved to the Athletic Club because that was where "much of the real work of the legislature was accomplished." But the move did not improve Wickard's understanding of the legislative process. He recalled vainly attempting to read bills on subjects about which he knew absolutely nothing. Frequently when such bills were reported his "stomach turned, but he voted for them."[21]

One of the first bills passed was the Executive Reorganization Act, which gave McNutt complete control of state patronage. The bill, signed on February 3, authorized the governor to group state government into eight departments. These departments centered around existing offices and the first move made by the governor after he received the power was to create a division of public safety in the executive department. McNutt then issued an executive order transferring all state agencies concerned with public safety to his new division.[22] Every existing state agency was similarly placed into one of the departments. McNutt then ruthlessly replaced Republicans with deserving (*i.e.*, McNutt-approved) Democrats.[23] Another bill passed by the legislature at the governor's request created a new state Purchasing Bureau. The bill allowed the governor to appoint a purchasing agent who had absolute control over all state purchases. Another act abolished the part-time, four-member state Highway Commission in favor of a three-member, full-time commission appointed by McNutt. Since the Executive Reorganization Act empowered the governor to place the lieutenant governor over one of his eight new departments, the legislature provided a year-round salary for the office. The act fixed the salary at $6,000 during years the lieutenant governor was not presiding over the Senate.[24]

At the governor's insistence, the legislature of 1933 also ventured into several new fields of taxation. It enacted a combination sales and income tax that imposed a 1 per cent tax on gross incomes of individuals and incomes from retail sales. It enacted an intangibles tax, a tax on "chain stores," and several laws diverting fees from drivers licenses and automobile licenses to the state general fund. To

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[20] James H. Madison, in his work on Indiana in the period between the two World Wars, stated: "McNutt presented the 1933 legislature with a large program that included specifically drawn bills, and he aggressively forced those bills through the legislature." McNutt's biographer noted that important bills often "would appear seemingly from nowhere." They would pass both houses and go to the governor for signing "all on the same day." Madison, *Indiana Through Tradition and Change*, 84; Blake, *Paul V. McNutt*, 137-38, 130.

[21] Albertson, *Roosevelt's Farmer*, 55-56.

[22] *Laws*, 1933, pp. 7-17. The departments were executive, state, audit and control, treasury, law, education, public works, and commerce and industry.

[23] The Republicans ousted included the reference librarian at the Indiana State Library who "was simply fired by Paul McNutt one afternoon" after twenty-nine years of service. "She packed up her desk and left." See Lana Ruegamer, *A History of the Indiana Historical Society, 1830-1980* (Indianapolis, 1980), 247-48.

[24] *Laws*, 1933, purchasing bureau, 728-31, highway commission, 67-87, lieutenant governor, 10-11, 725-26.

permit the governor to adjust the fiscal system to the new order, the legislature gave him almost unlimited authority to shift funds and levies about. A Department of the Treasury, composed of the governor, one appointee named by him, and the state treasurer, replaced the old state Board of Finance. The power to fix state tax levies, formerly lodged with the Board of Tax Commissioners, was transferred to the new board. In revamping the state's financial structure, the legislature also changed the beginning of the fiscal year from October 1 to July 1 in order to conform to federal fiscal years.[25]

Other bills of major importance standardized the salaries of county and city officials. The act affecting county officials was passed suddenly, under suspension of the rules, and made their salaries uniform while diverting practically all fees to the county general fund. The city officials' salary act accomplished the same end for cities. Other bills cut prosecutors' salaries and reduced the pay of grand and petit jurors and election officials. Another far-reaching enactment abolished the office of county road superintendent, thus obliterating one species of Republican patronage. The office of township assessor was abolished in all townships of 5,000 or less population. Under the act, which affected 90 per cent of the townships, township trustees would conduct assessments at no additional compensation. The most controversial act dealing with cities and counties was the so-called "Skip Election Act" by which the legislature deferred the 1933 city elections until 1934 when they were merged with state and county elections.[26] Ostensibly an economy measure, this last act also proved a boon for the Democratic party since it held most of the municipal offices in the state.

Acts aimed at alleviating the economic hardship of the Depression included an Old-Age Pension Act and a series of measures relating to poor relief. One relief act established a Governor's Commission on Unemployment Relief empowered to investigate the work of township trustees in administering poor relief. The governor was authorized to remove any trustee who failed to perform properly. Other acts in this category set standards for township investigations of poverty, empowered trustees to deny relief to persons who refused to work on public projects, and dealt with ways to obtain federal Reconstruction Finance Corporation funds for local relief work.[27] Organized labor saw most of its legislative program enacted. New laws restricted the issuance of injunctions in labor disputes, recognized the right of labor to organize, and outlawed "yellow-dog" contracts (*i.e.*, contracts that forced employees to promise not to join a labor union). Other acts provided that employees should be paid at least twice a month, forced railroads to provide "for the health and safety of employees," and set conditions for the employment of women in factories.[28]

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[25] *Ibid.*, gross income tax, 388-407, intangibles tax, 523-40, registration and licensing of motor vehicles, 653-59, drivers license fee, 769-70, fiscal year, 161-62. The new Department of Treasury was provided for in the Executive Reorganization Act, *ibid.*, 7-17.

[26] *Ibid.*, county officials' salaries, 88-114, prosecutors' salaries, 770-84, skipping municipal elections, 878-82.

[27] *Ibid.*, old-age pension, 164-74, investigation of poor relief administration, 759-61.

[28] *Ibid.*, wages, 371-72, women's hours, 435-36, workmen's compensation, 1103-5, railroad employees, 421-25.

McNutt signed one major bill immediately upon passage in 1933 that did not originate in the "Bill Factory," an act recodifying the banking laws of Indiana. The banking act was the product of a survey commission authorized by the 1931 legislature. Herman B Wells, an economics professor in the School of Business at Indiana University and later president and chancellor, headed the commission and Charles Kettleborough of the Legislative Reference Bureau led the team that drafted the proposal. The act created a state Department of Financial Institutions consisting of five persons to be appointed by the governor. The new department was given broad powers to limit withdrawals from banks, to declare moratoriums, to open closed banks with the consent of 80 per cent of the depositors, to remove banking officials, and to liquidate insolvent institutions. The act ran 182 pages in printed form.[29] Claude R. Wickard, "lacking any knowledge of bank operations," voted for its passage at the behest of Frank McHale. Wickard claimed McHale favored the act because one of its provisions absolved from liability stockholders in banks which had failed, and McHale was attorney for a bank in Logansport which had closed its doors in 1931.[30]

The first act passed by the legislature in 1933 originated entirely with the lawmakers themselves. It appropriated $129,500 for the expenses of the session, some $30,000 less than the appropriation for the same purpose in 1931. As a result, reduced numbers of doorkeepers and other employees were ordered by the presiding officers.[31] At the end of the session, with less than the customary controversy, the appropriations bill passed. It provided $22 million for the biennium, the amount requested by McNutt and almost $4 million less than the 1931 appropriation.[32] The Indianapolis *News* in its summary of the session noted one type of bill that lawmakers did not pass in 1933: "As usual the legislature killed bills that would have reapportioned the legislative districts."[33] After the appropriations bill passed, the 78th General Assembly adjourned on March 6, the first time in years that a legislature adjourned on time.

The Republican minority was so small in 1933 that it was all but helpless before the McNutt juggernaut. The seven Republican senators, of course, protested the Executive Reorganization Act. "The time is not ripe for a dictator in Indiana," they said, adding that the bill would "build up the greatest machine ever known on the face of the earth" since Nero and would require "a superman" in the governor's office to attend to its responsibilities.[34] Such opposition protests were ineffectual. Normal in periods of overwhelming party dominance, however, and evidenced at the 1933 session, was opposition within the dominant party. Senator Chester A. Perkins of South Bend, a veteran Democrat of ten years service,

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[29] Herman B Wells, *Being Lucky: Reminiscences and Reflections* (Bloomington, Ind., 1980), 52-55; *Laws*, 1933, pp. 176-358.

[30] Albertson, *Roosevelt's Farmer*, 58.

[31] *Laws*, 1933, pp. 3-5.

[32] *Ibid.*, 581-652.

[33] Indianapolis *News*, March 7, 1933. This article, headed "Broad Themes in Assembly Trends," is an excellent summary of the laws passed at the session.

[34] Indianapolis *Star*, February 2, 1933.

was especially outspoken. He fought the executive reorganization bill in every parliamentary manner possible, demanding personal privilege which the lieutenant governor refused to grant. On third reading, Perkins strode back and forth during the roll call, shouting objections and haranguing his colleagues. These tactics proved unavailing, as the bill whipped through 39 to 7. When the governor signed the bill the same day, Perkins told the press "Only one man [D. C. Stephenson] before had the temerity to say that he was the law and he is behind bars at Michigan City." Perkins said McNutt was likely to end up in the same place.[35] Perkins continued to oppose every administration bill until February 25, when the McNutt tax package passed. On that day, Perkins resigned "with condign shame and sincere regret that I admit my weakness and inability to defend" the rights of his constituents. Bills were being gaveled through "illegally" and the tax package constituted "taxation without representation."[36] Perkins never held another political office.

Democrats in the House who spoke out against the McNutt program included Charles P. Tighe of Floyd County and Lenhardt E. Bauer of Terre Haute. Tighe opposed the Executive Reorganization Act as "a ripper bill" which he defined as one aimed at filling party coffers in an unconstitutional manner. Bauer complained of a "gag rule" imposed by the speaker against Democrats who opposed another bill that was being "stuffed down our throats like castor oil."[37] This intraparty opposition went nowhere in the face of solid majorities willing to vote yes on everything that the governor proposed. Opposition from outside the legislature also failed. The most bitter complaints came from business groups opposed to the tax proposals. The rush to pass tax legislation without permitting time for citizens to make their views known was contrary to the "fundamental precepts of free government" in the opinion of the state Chamber of Commerce, the Indiana Council of Retail Merchants, and the Merchants Association of Indiana.[38]

The Indianapolis *Star* summarized the 1933 legislature's record with a headline at the end of the session:[39]

McNUTT PROGRAM IN ENTIRETY GOES INTO STATE LAWS
RECORD UNPRECEDENTED IN INDIANA POLITICAL HISTORY
SET BY SEVENTY-EIGHTH GENERAL ASSEMBLY

There can be no question that the record of the 78th General Assembly was "unprecedented." Never before had any Indiana General Assembly come so close

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[35] *Ibid.*, February 3, 1933. Perkins was a political ally of Secretary of State Frank Mayr, Jr., also of South Bend. Mayr had challenged McNutt for the 1932 gubernatorial nomination, and after the reorganization bill became law, the governor stripped his secretary of state of all power. Madison, *Indiana Through Tradition and Change*, 79.

[36] Indianapolis *News*, February 25, 1933. Perkins was chairman of the Senate rules committee at the session. "I have fought a lone fight," he told his colleagues. "You have borne me down ruthlessly. You have scorned me, jeered me, and defeated me. . . . So I will stay no longer." Indianapolis *Times*, February 25, 1933.

[37] Indianapolis *Star*, February 2, 1933; Indianapolis *News*, February 10, 1933.

[38] Indianapolis *News*, February 21, 1933.

[39] Indianapolis *Star*, March 5, 1933.

to abdicating its role as lawmaker for the state. A half century later, the record continues to stand alone. Its Democratic successors in the 1930s, including McNutt's second legislature in 1935, proved far less susceptible to executive domination. Nor could McNutt's Republican successors, though armed with huge partisan majorities in both houses, duplicate his record of near total gubernatorial domination. This was especially true of Ralph F. Gates (1945-1949) and George N. Craig (1953-1957). Each, like McNutt, was a former commander of the American Legion who tried to "reorganize" state government to his party's and his own advantage. Though Gates and Craig each enjoyed better than two-thirds majorities in both houses during the first General Assembly to convene during his term, neither came close to achieving the power that McNutt enjoyed. In the absence of a crisis like the Great Depression, neither had a legislature as compliant as McNutt's.

Historians frequently draw a parallel between the McNutt administration and the first term of Franklin D. Roosevelt. Biographer I. George Blake claimed that "The new governor pioneered practically all the laws which afterwards President Roosevelt was given credit for instituting." John D. Barnhart and Donald F. Carmony stated that McNutt concentrated on "relief, recovery, and reform" because many of Roosevelt's measures "required state action in order that the people of the state could participate in the benefits offered by the federal government." In light of the governor's undeniable emphasis on increasing executive power, James H. Madison suggested that "in order to achieve social reform McNutt first had to take care of the immediate political problems of taxation, administration, and patronage." Madison added that a less sympathetic view might emphasize that McNutt's reforms were designed more "to extend his power in the state and in the nation by attracting and holding new voters to the Democratic party."[40] Either way, there is a clear parallel between the New Deal and McNutt's program. Both instigated fundamental, long-lasting social reforms while at the same time vastly strengthening the executive branch of government.

The General Assembly that implemented McNutt's initial program convened two months before Roosevelt's inauguration. This fact leads to other interesting parallels between the New Deal and developments in Indiana. Substitute "Brain Trust" for "Inner Circle" and the work of a Thomas Corcoran or a Morris Cohen (Roosevelt's leading legislative draftsmen) for the "Bill Factory" at the Indianapolis Athletic Club and one has the broad formula that Roosevelt used to inaugurate the New Deal in his First Hundred Days. During that time Congress convened in special session with overwhelming Democratic majorities in both houses. The session convened three days *after* the Indiana legislature adjourned and passed every measure proposed by the chief executive and his advisors. Most of these measures passed in the exact form proposed by the president, just as

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[40] Blake, *Paul V. McNutt*, 127; John D. Barnhart and Donald F. Carmony, *Indiana: From Frontier to Industrial Commonwealth* (4 vols., New York, 1954), 2:478; Madison, *Indiana Through Tradition and Change*, 104.

McNutt's measures passed in the exact form proposed by the governor. Thus, both legislatures surrendered their initiative in lawmaking to a dominant executive and his advisors. The 78th Indiana General Assembly, like the 73rd Congress of the United States, revolutionized government. In Indiana the work was so thoroughgoing that successive legislatures worked within the general framework established by the 1933 session until at least 1963. Indiana's 78th General Assembly may also be significant because its work preceded that of the 73rd Congress. Certainly the modus operandi of Democratic lawmakers in Indianapolis between January and March of 1933 can be viewed as a prototype for Democratic lawmakers in Washington between March and June of that year.

1933 Aftermath: Short Term and Long Range

The entrenchment of McNutt appointees in state government as a result of some of the laws passed in 1933 helped ensure that Democrats would retain control of both houses of the General Assembly until 1939. In 1935, however, the party no longer had the two-thirds majorities necessary to suspend rules and pass laws at will. Senator Elias C. Swihart, elected in 1932 from normally Republican Elkhart County, claimed that the Democratic majority was reduced because of popular dissatisfaction with McNutt's high-handed methods. Two Republicans from Elkhart defeated two incumbent House Democrats in 1934, and Swihart admitted he was back in Indianapolis only because he was a holdover. Swihart was one of numerous Democrats in the 1935 General Assembly who sought to recapture legislative ground lost to the executive. Due to this legislative reawakening, the bills that became law in 1935 were more likely to originate with the legislature and at least two measures sought by McNutt failed to pass. Both were seen by Senate Democrats as gubernatorial power grabs at a time when the newspapers were filled with accounts of Huey Long's high-handedness in Louisiana. The first bill would have empowered the governor to investigate and remove state and local officials. This bill, sponsored by President *pro tempore* Jacob Weiss, lost 8 to 39 in a Senate where Democrats enjoyed a 38 to 12 majority.[41] The second bill would have destroyed the state police merit system by giving a board serving at the pleasure of the governor power over appointments and promotion. Critics said it would convert the state police into the governor's personal instrument. After a bitter fight between Senate Democrats and administration spokesmen, the bill passed without providing for the appointed board that McNutt wanted.[42] Whatever McNutt's intentions in sponsoring such legislation, the General Assembly made it clear that the example of Long and Louisiana was not one that Indiana wanted to imitate.

Yet the Democrats' cohesiveness in the General Assembly remained substantial enough to implement a liberal program. New Deal measures such as the

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[41] Swihart file, Centennial History, ISL; *Senate Journal*, 1935, pp. 245, 256, 313, 621-22; Indianapolis *Star*, February 21, 1935.

[42] *Senate Journal*, 1935, pp. 284, 687, 864-65, 972-75, 1266-69, 1310; *Laws*, 1935, pp. 1463-75; Indianapolis *Star*, March 1, 2, 1935.

National Recovery Act of 1933 and the Social Security Act of 1935 required state action to secure the federal benefits. The legislature obliged by passing several laws in accord with federal mandates to regulate business, alleviate unemployment, and increase welfare benefits and entitlements. Indeed, in 1936 a special session was called to pass cooperative legislation to enable the state and its citizens to participate in the benefits of the social security law.[43] Three laws were passed. The first provided for acceptance of the provisions and benefits of the federal act. A second act provided unemployment compensation for those unable to find work. The third act created the state Department of Public Welfare and broadened public health benefits for indigent mothers and children.[44] Republican legislatures of the 1940s and 1950s spent much of their time trying to undo what the Democratic legislatures of 1935, 1936, and 1937 did to make state law conform to New Deal programs.

The patronage advantages that some of the laws of 1933 gave to Democrats were another factor in the party's success later in the decade. These advantages also helped the party win three of the four gubernatorial elections between 1936 and 1948. Democrats lost the legislative advantage in 1939, however, when Republicans gained a narrow 51 to 49 margin in the House while Democrats retained the Senate 34 to 16. During the two terms that Henry F. Schricker was governor (1941-1945, 1949-1953), Republicans controlled both houses of the legislature at six of eight sessions. In 1949 Republicans kept the Senate while Democrats won the House. Indeed, Democrats controlled both houses plus the governorship only once after 1937. In 1965, during the first General Assembly of Governor Roger D. Branigin's term, Democrats held the House 77 to 23 and the Senate by a 35 to 15 margin. Otherwise, the general assemblies from 1939 through 1969 were Republican-dominated bodies.

The most important long term result in the General Assembly of the revolution of 1933 was seen in the changed nature of the Democratic party. For a generation before McNutt, his party in Indiana was a tradition-inclined minority, suspicious of exercising state power to reform society. McNutt and the Great Depression changed that irrevocably. The new Democrats, liberal and determined to use government to forge social reform, suddenly found themselves an uncontested majority in state government. Strongest in the cities, where they championed the cause of labor and ethnic minorities, they brought to the General Assembly personnel and perspectives never before present there in such strength. While these new Democrats lost control of the state House of Representatives as early as 1939, they dominated parts of Indiana during the entire era. That meant Democrats were omnipresent after 1941 as a legislative minority of urban orientation in a body with a Republican majority of basically rural orientation. The emergence of a liberal Democratic party as a political force to be reckoned with in the General Assembly was perhaps the most lasting legacy of the 1933 session.

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[43] *House Journal*, 1936 (s.s.), 3-4.

[44] *Laws*, 1936 (s.s), social security acceptance, 6-12, unemployment compensation, 80-120, public welfare program, 12-80.

Lake County became the state's bastion of Democratic liberalism. The most urbanized and industrialized county in Indiana, there was found the core of party strength—the working class, ethnic minorities, Catholics, and blacks. Between 1932 and 1968, six Democrats and four Republicans were elected governor. No Democrat was elected without Lake County; Henry F. Schricker in 1940 and 1948 and Matthew E. Welsh in 1960 were elected mainly because of Lake County. During this same time, sixty-eight individuals represented Lake County in the legislature. Sixty-three of them were Democrats, and collectively they were unlike any delegation from any county in any previous era. The contrast between Lake County's representation before and after 1933 illustrates graphically what the transformation from a rural, agricultural society to an urbanized, industrialized society portended for the state. The contrast between Lake County's representation after 1933 and the representation from the rest of the state illustrates just as graphically what the legislature's long term failure to reapportion portended.

During the general assemblies that convened between 1891 and 1929 thirty-five individuals represented Lake County (eight in the Senate, twenty-six in the House, and one who served in both houses). Thirteen of these were born in Indiana, four in Canada, two in Germany, and one each in Bohemia and Poland. Twenty members of the Lake County delegation were of English or German ancestry, and only two were of Slavic or eastern European ancestry. Of the thirty-five only three were Roman Catholics, nine were Methodists, and the rest belonged to various other Protestant churches. Almost half (seventeen) were lawyers; most of the rest were businessmen or bankers. The total also included four farmers and one member of a labor union. Eighteen of these lawmakers were Freemasons. There were no women and no blacks among them. Politically, there were thirty Republicans, one Progressive-Republican, and four Democrats elected from Lake County.

According to the Apportionment Act of 1921, Lake County was entitled to three seats in the Senate and five seats in the House at each session between 1931 and 1963. The county also shared one House seat with Porter County during these years. According to the Apportionment Act of 1963, Lake was entitled to four Senate seats and ten House seats at the 1965 session. After court-ordered reapportionment in 1965, the county was allotted five Senate seats and eleven House seats at the sessions of 1967 and 1969. Democrats filled all but five of these seats between 1931 and 1969. Two of the five Republicans during these years were Senate holdovers at the 1931 session. Republicans also held the Lake-Porter seat in the House at the sessions of 1947 and 1957, and one Lake County seat in 1957.

Nineteen individuals represented Lake County in the Senate during the era; forty-four served only in the House; and five individuals served in both houses. Thirty-eight were native-born while seven were foreign-born (three in Czechoslovakia, and one each in Poland, Yugoslavia, Hungary, and Italy). At least nineteen members from Lake County were of Slavic or eastern European ancestry, seven were Irish, six were Italian, and two were black. Only eight were of English or German ancestry. Forty lawmakers from Lake County were Roman Catholics and two were Eastern Orthodox. Only six belonged to the Methodist church.

Although sixteen of the sixty-eight were lawyers, no lawyer represented Lake County during the 1950s. (Since 1851 probably no other county ever went an entire decade without at least one lawyer representing it in the legislature.) Twenty-one of the Lake County Democrats were either factory workers, public safety employees, teachers, or worked in service occupations. The total included only fourteen Freemasons, twenty-two members of a labor union, and five women. These latter were almost exact opposites of the native, white, Protestant women who served as Republicans in the 1920s. Not one of the Lake County women belonged to the Woman's Christian Temperance Union, the League of Women Voters, or the Eastern Star. Three were Roman Catholic, one was Serbian Orthodox, and one was Lutheran. They were, in the order that they first appeared in the legislature: Bernadine (Betty) Malinka (Czech, 1943); Alice Sabo Brown (Austrian and Czech, 1955); Mildred Kopack Churilla (Serbian, 1955); Anna Maloney (Irish, 1961); and Victoria Caesar (Italian, 1965).

A roll call of Lake County lawmakers during any decade was unlike any heard previously in the State House. Those of Polish ancestry included Representatives John E. Roszkowski and Edward L. Chubinski in the 1930s; Senator Edmund F. Makowski in the 1940s; William E. Babincsak, who served in the House from 1955 to 1969; Benjamin J. Jr., and Richard J. Lesniak, brothers who held House seats in the 1960s; and Representative Anthony J. Zaleski, Jr., in 1969. The Polish-Americans also included Walter Anthony Baran, who served in the House in 1947 and moved to the Senate from 1949 to 1967. An accountant from East Chicago, Walter Anthony was not related to Walter Andrew Baran, a steelworker from Hammond.[45] Legislators of Czech descent included Joseph E. Klen, who served in the House during each decade of the era; Representative Paul J. Hric, who served eleven terms between 1961 and 1984; and Senators Emery L. and Bernard W. Konrady (brothers) and Paul J. Stanish who served in the 1960s. Hungarian-Americans serving from Lake County included Louis F. Churilla and Peter D. Bartock, Sr., half-brothers who served together in the House in 1951, and Representative Nick Balog, Jr., in 1949 and 1959. Finally, the Lake County delegation during the era included Representative Jose Arredondo in 1969, the first Mexican-American to serve in the Indiana General Assembly, and Representative Adam Benjamin, Jr., the first Armenian-American to serve.[46]

Eugene H. and Phillip E. Bainbridge were among the more noteworthy legislators from Lake County because they were the second father and son in

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[45] Walter Andrew won election in 1962 when he ran simply as Walter Baran upon the resignation of Senator Eugene H. Bainbridge. The presence of two Walter A. Barans from Lake County caused considerable confusion for the secretary of the Senate in 1963. The confusion was only slightly less in 1967 when Walter Anthony remained in the Senate while Walter Andrew moved to the House. Neither Walter Anthony nor Walter Andrew was related to Walter Louis Baran, a Gary schoolteacher, who held a Lake County seat at the sessions of 1971-72. All three appeared on ballots simply as Walter Baran and the evidence indicates that many voters between 1946 and 1970 believed they were voting for the same man each time they voted for "Walter Baran." See Baran files, Centennial History, ISL.

[46] Data on Lake County legislators from *BD* 1 and 2.

history to serve at the same session. In the sessions of 1967, 1969, and 1971-1972 the elder Bainbridge was in the Senate while the younger served in the House. James S. Hunter, a black steelworker born in Kentucky who moved to East Chicago in the 1920s, enjoyed the longest tenure from the county. Hunter served for thirteen consecutive sessions from 1941 to 1965. His twenty-six years in the Indiana House constituted the longest tenure of any black member. William C. Christy (Senate, 1955 to 1977-1978) enjoyed the longest tenure from Lake County in that body.[47]

In 1935, when the House of Representatives killed a pari-mutuel bill, Representative Joseph Klen of Whiting stated: "We don't like the way they've been doing things down here and they just operate different [*sic*] here than we do in Lake County." Klen's lament held true during most of the era as Lake County found itself at odds with—and under suspicion by—the rest of the state more frequently than any other area, including Indianapolis and Marion County. Klen's solution in 1935 was to introduce "A bill for an act giving the consent of the General Assembly of the State of Indiana for making Lake County a separate state." Klen was serious but Speaker Edward H. Stein, thinking the bill a joke, assigned it to the military affairs committee. Stein found out that no joke was intended when William C. Morris, Jr., of Hammond, chairman of the committee, reported the bill with a "do pass" recommendation. The proposal got as far as third reading before Benjamin F. Harris, a Republican from Wayne County, moved to indefinitely postpone. Harris' motion carried and thus Lake County was not allowed possibly to secede from the rest of Indiana.[48] The county has, nonetheless, existed politically since 1933 almost as a state within a state. Given the diversity of the ethnic mixture, the proximity to Chicago, and the total domination by the Democratic party, it could hardly be otherwise. Lake County was unlike any place else in Indiana in its wide variance from the ethnic, social, and political portrait standard in the state.

State Control of Alcoholic Beverages Since 1933

Democrats and Republicans agreed on only two points in their respective state platforms for 1932: one, the Wright Bone Dry Law of 1925 must be repealed; and two, Congress should submit the question of repeal of the Eighteenth Amendment to popularly elected conventions in each state. It "was the first time the two parties had seen alike on the liquor question since their formation." Fifteen years of state and national experience made it obvious that in Indiana, as elsewhere, prohibition was unworkable. Once Franklin Roosevelt and Paul McNutt were elected in 1932, beer and liquor would soon be legal again. Given the century-old policy that the state could regulate or prohibit liquor as the legislature saw

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[47] Russell B. and William Henry Harrison, who served in the Senate and House respectively at the 1927 session, were the first father and son to serve at the same session. See Eugene H. and Phillip E. Bainbridge, Hunter, and Christy files, Centennial History, ISL.

[48] Klen quotation, Indianapolis *Star*, February 20, 1935. See also *House Journal*, 1935, pp. 596, 604, 644.

fit, however, it was inevitable that legislation regarding alcoholic beverages would not be a simple matter. As it turned out, the steps taken by the Democrats at the 1933 session ensured that "politics and beer" would become inseparably linked on the state scene for the next quarter of a century. During that time "neither party ever quite learned that beer, through no fault of its own, is a political subject much too hot to handle with impunity."[49]

Representative John F. A. Ryan, an Irishman from Terre Haute who described himself as a "Hooverized Railroad man," sponsored the three bills dealing with alcohol that became law in 1933. The first, introduced on January 18, repealed the Wright law. It passed the House 78 to 12 and the Senate 34 to 13.[50] Ryan's second bill, anticipating action by the New Deal Congress to repeal prohibition, called for a special election in May to elect delegates to a June convention for the sole purpose of ratifying repeal of the Eighteenth Amendment.[51] The third bill sponsored by Ryan was drafted at the "Bill Factory" under the direction of Frank McHale. Entitled "An Act Concerning Alcoholic Beverages," it set the direction of state liquor legislation for a generation, started a twenty year political battle between the parties for control of the state's liquor traffic, and initiated a five year "beer war" between Indiana and neighboring states.

The act purported to encourage temperance by prohibiting "forever the open saloon." To accomplish this, only bottled beer, not keg or draught beer, could be sold. An excise tax was imposed on all beverages containing alcohol and all authority over manufacture, sale, and consumption was centralized in the hands of the state. The state collected all fees and licensed all manufacturers and sellers. The state excise director, appointed by the governor, was given sole authority to grant all permits. The state was divided into ten beer import districts, each with a single importer. A state controlled, monopolistic wholesale system was established within each district. No beer manufacturer outside of Indiana could ship so much as a pint of beer into the state except through the importers, who collected $1,000 a year for themselves per brand of beer in their district. Thus, out-of-state brewers were assessed $10,000 per year to distribute their product statewide. Each importer in turn supplied his wholesalers at a profit; each wholesaler in turn sold at a profit to his retailers. Also, as practiced,

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[49] Harold C. Feightner, "Wet and Dry Legislation in Indiana (1790-1957)," bound typescript, Indiana Division, ISL, quotations, 262, 306. Feightner, a political reporter for the Indianapolis *News* during the 1920s, became executive director of the Indiana Brewers Association in 1933. His account of liquor legislation in Indiana and its effects from territorial days to the 1950s is highly informative.

[50] Ryan file, Centennial History, ISL; *House Journal*, 1933, pp. 169, 212, 254-55, 552-53, 952, 990; *Laws*, 1933, p. 492. When Governor McNutt signed the repeal on March 1, he immediately issued a general amnesty for all those convicted under the Wright law. Thus some 400 prohibition "felons" were freed from prison. See Feightner, "Wet and Dry Legislation in Indiana," 277.

[51] The bill passed both houses by even larger majorities than the Wright repeal. *House Journal*, 1933, pp. 839, 873-75, 938-39, 1032, 1038, 1095; *Laws*, 1933, pp. 851-58. The convention in June made Indiana the eighth state to ratify the Twenty-first Amendment. The constitutional requirement of ratification by three fourths of the states was not met until December, 1933, when beer and liquor became legal again.

only McNutt Democrats received importing, wholesaling, or retailing permits.[52]

The 1935 legislature passed a Liquor Control Act that established the basic framework for state control from that time to the present. The act built upon the 1933 law, with some refinements to include liquor and draught beer. Taverns that could dispense beer and liquor for on-premises consumption were defined as places where "a substantial portion of the business must be the furnishing of food." Establishments which met this definition must be closed on Sundays, Christmas Day, and on election days. They must close at 1 a.m. on weekdays and at 2 a.m. on Sunday mornings. No tavern could be located within 200 feet of a church, and no one under the age of twenty-one could enter such an establishment. The act gave enforcement power to an Alcoholic Beverage Commission (ABC) that would have its own state excise police to enforce the law. The commission, a baldly partisan, four-man board appointed by the governor, had absolute control over the distribution, sale, and consumption of beer. It named the importers who controlled the ten "ports of entry" for out-of-state breweries. It designated all wholesalers in the state, and approved all retail licenses. Under ABC jurisdiction every wholesaler was guaranteed monopoly control of his brands of beer within his area. The act, passed by comfortable majorities in both houses over loud Republican protests, ensured that the state treasury would fill with excise taxes and fees from permits and licenses. It also guaranteed that the pockets and party coffers of Democrats would fill with "beer money" as long as the party controlled state government.[53]

The legislatures of neighboring states moved within months to retaliate against Indiana's "ports of entry." As a result, the ABC was soon a defendant in suits brought in Illinois, Ohio, Michigan, and some more distant states. Several court decisions upheld the right of a state legislature to regulate alcoholic beverages in any manner it chose. Cumulatively, the decisions held that the Twenty-first Amendment "set aside so far as interstate trade in alcoholic beverages is concerned any immunities guaranteed other commodities under the due process and equal protection clauses of the United States constitution." Another ruling held that under the Twenty-first Amendment the right of a state to prohibit or regulate "the importation of intoxicating liquor is not limited by the commerce clause." Failing support from the courts, the Michigan legislature replied in kind by creating its own liquor commission that, in December, 1937, prohibited the importation of beer from Indiana. In March, 1938, the Indiana Alcoholic Beverage Commission concluded a "treaty" with the Michigan Liquor Commission whereby both declared a truce until March 30, 1939. By that date, said the ABC, the Indiana General Assembly would have reconvened and repealed the "ports of entry" feature of the 1935 act.[54]

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[52] *House Journal*, 1933, pp. 169-70, 227-29, 233, 264-65, 516-17, 548-49, 550-52, 824, 894-95, 904, 990; *Laws*, 1933, pp. 492-522.

[53] *House Journal*, 1935, pp. 559-60, 774-75, 1029-32, 1212, 1220-22, 1233; *Laws*, 1935, pp. 1056-1197.

[54] Feightner, "Wet and Dry Legislation in Indiana," quotations from federal court decisions, 305, 315, "beer war" with neighboring states, 309-21.

At the request of the ABC and in keeping with the "treaty," the 1939 session amended the 1935 act to terminate the ports of entry provisions as of March 30. At the insistence of the Republican-controlled House, the session also outlawed territorial monopolies for beer wholesalers and forbade appointments of wholesalers on the basis of party affiliation. The amendments, which temporarily ended a partisan monopoly in the beer business, became law with the reluctant signature of Governor M. Clifford Townsend.

Almost every legislature after 1935 tinkered with the regulatory provisions of the basic law. Amendments in the late 1930s included a 1937 provision stating that Lake County could have one liquor bar per every 500 people instead of one per every 1,000 people as in the rest of the state. Amendments in 1939 changed the closing time for taverns to midnight on weekdays and to 1 a.m. on Sunday mornings. They also stipulated that all beer sales must be subject to cash payments. In 1941 a Republican legislature allowed Lake County taverns to remain open until 1 a.m. on weekdays and until 2 a.m. on Sunday mornings.[55] Only in 1943, with the nation absorbed in World War II, did the legislature fail to amend the basic regulatory provisions. A decade after prohibition ended, the Indiana liquor code was an almost indecipherable melange of conflicting, often contradictory, rules.

In 1945 the Republican party swept into control of both houses by better than two-thirds majorities and Ralph F. Gates, the first Republican to hold the office since 1932, sat in the governor's chair. Republican county chairmen wanted their share of the lush beer business. The legislature proved accommodating. The old Alcoholic Beverage Commission was abolished and a new one created on a strictly partisan basis. The Republicans resurrected the doctrine of "absolute discretion" over granting wholesale and retail licenses, giving Republicans a beer monopoly. "The only difference between the Gates system and that employed under the administrations of Governors Paul V. McNutt and M. Clifford Townsend," wrote Harold C. Feightner, "was the new faces in the picture."[56] A Republican newspaper in Evansville was not pleased with its party's performance: the last legislature "made possible a lot of bad government. It met in the midst of a great war and thought more of patronage and spoils than it did of anything else."[57]

In reality the 1945 legislature thought as much about regulating how, where, and when people drank alcoholic beverages as it thought about patronage. The basic regulatory code was amended so that Lake County's privileges were revoked and midnight closings decreed for taverns statewide. Dancing was prohibited in barrooms but allowed in hotels and private clubs with bars. No patron could stand, and no woman could be seated, at a bar. One could not carry a drink from the bar to a table, or from one table to another. The legislature, believing

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[55] *Ibid.*, 318-19; *Laws*, 1937, pp. 931-1003; *ibid.*, 1939, pp. 79-117; *ibid.*, 1941, pp. 927-60. Lake County received special consideration because of its proximity to Chicago where taverns remained open later than in Indiana.

[56] *Laws*, 1945, pp. 1737-59; Feightner, "Wet and Dry Legislation in Indiana," 325.

[57] Evansville *Courier*, April 25, 1945.

patrons would be less rowdy if they remained seated at all times, stipulated that only a bartender or waitress could fetch and carry drinks in a tavern. The 1945 amendments also mandated that no one under eighteen years of age could be taken into an establishment where beer or liquor was sold. Out of a perhaps misguided deference to war veterans who would soon be returning home, the lawmakers of 1945 also added Memorial Day to the list of days when taverns must be closed.

In 1947 another Republican legislature further tightened the party's hold on the beer distribution system. In 1949, with the legislature split and Democrat Henry F. Schricker back in office as governor, Democrats received some concessions in the awarding of permits and licenses but no important changes were made in the regulatory features of the code. The Fort Wayne *News-Sentinel* summarized the situation sixteen years after the repeal of prohibition: ". . . larceny got the best of Republicans as it had the Democrats. If the situation stunk under McNutt and Townsend, it also stunk under Gates."[58] Public opinion and newspaper editorials agreed that the situation was scandalous.

Republicans controlled both houses in 1951, the last session to meet while Schricker was in office. Under the pressure of public opinion, leaders of both parties acted to take beer wholesalers out of politics once and for all. Senators Roy Conrad (a Monticello Republican) and Leonard F. Conrad (a Terre Haute Democrat) co-sponsored a bill that granted renewal applicants a public hearing before the Alcoholic Beverage Commission and a court hearing if the denial was attempted for political reasons. The measure passed the Senate 38 to 1, and the House 83 to 1.[59] In the House, Democrat Joseph Klein of Gary and Earl Buchanan, an Indianapolis Republican, co-sponsored a bill that restored the tavern ratio in Lake County from one for every 1,000 persons to one for every 500 persons. It passed the House 75 to 1, and the Senate 37 to 3.[60] As these two measures indicated, the control of beer and liquor in Indiana was finally being established on a nonpartisan basis.

Subsequent legislatures, however, continued to adjust the regulatory provisions of the beverage code. In 1953 a House bill authorizing package liquor stores to sell beer became law (previously the code forbade liquor stores to sell "malt beverages"). Another House bill that became law said taverns caught with gambling devices faced mandatory license suspensions for sixty days.[61] In 1955 bills died that would have barred beer sales at county fairs with 4-H Club exhibits and all sales of any alcoholic beverages within 200 feet of a mortuary.[62] In 1957

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[58] Fort Wayne *News-Sentinel*, June 24, 1949. For the Republicanization of the beer business in the 1940s, see Feightner, "Wet and Dry Legislation in Indiana," 322-42.

[59] *Senate Journal*, 1951, pp. 203-4, 415, 714, 821; *Laws*, 1951, pp. 740-49.

[60] *House Journal*, 1951, pp. 221-22, 801-2, 1019, 1055; *Laws*, 1951, pp. 1069-77.

[61] *House Journal*, 1953, liquor stores selling beer, 109, 561-62, 827, 901, 979, gambling devices, 44, 348-49, 869-70, 1033-34; *Laws*, 1953, pp. 179-80, 472-78. Liquor stores could only sell "warm" beer, not "cold." Gambling devices forbidden in taverns included numbers jars, pinball machines, punchboards, lotteries, and policy numbers.

[62] *House Journal*, 1955, p. 339; *Senate Journal*, 1955, pp. 41, 1013.

the bill to prohibit beer sales at county fairs with 4-H exhibits became law.[63]

By the 1960s the state's liquor control machinery was based upon the 1935 basic act, a set of jerry-built amendments by successive legislatures, and regulations issued by the ABC. If the liquor laws were convoluted and contradictory, the rules issued from time to time by the commission were even more so. The situation defied quick description or reliable enforcement. For example, the original law prohibited dancing in barrooms except at bona fide clubs and hotels. Over the years ABC rules nonetheless allowed dancing when the floor was stepped up or down from the "drinking" floor level. A later ABC rule changed this standard to a "waist-high barrier" around the dance floor. Since 1945, by law, women could not sit at the bar. In the 1950s the ABC allowed women to sit at "piano bars" as long as the drinks were mixed or poured at the "regular bar." Soon piano bars throughout the state featured impromptu dance performances by the more uninhibited female patrons. Women were also forbidden to tend bar until Lake County tavern owners discovered that by ABC definition a bar was not a bar unless its counter was a certain specified number of inches above the floor. The owners lowered their bars and women began to pour drinks. Finally, the 1935 act specified that alcoholic beverages could only be sold for on-premise consumption in "restaurants." What constituted a restaurant inevitably required its own batch of regulations. By the mid-1960s, the code had swelled to some 250 pages of statutes, amendments, and ABC regulations which no retailer could hope to comprehend. By then the ABC was extracting more than $18 million a year from the beverage business, at a cost of about $1 million annually for the commission and its excise police.[64]

In the 1960s the General Assembly spent less time per session on liquor legislation than it had during any decade in more than a century. What time was spent was devoted to liberalizing the law, a trend that continued into the 1970s. In 1963 an amendment to the code allowed a female stockholder or the wife of a permit holder to tend bar. In 1967 the code was amended so that any woman could tend bar providing she had a license.[65] In 1971 the legislature amended the code in two important ways: first, it stipulated that a customer need not be seated to be served; and second, patrons were allowed to carry their own drinks from table to table. In 1973 sale by the drink on Sunday in restaurants with specified annual food sales became legal. That year legislators also decreed that "for purposes of this title [revising the beverage code], the masculine gender includes the feminine." In other words, women in Indiana could be seated at the bar. Other changes in the early 1970s allowed drinks to be served on golf courses and in bowling alleys rather than requiring adjoining taverns to have separate entrances.[66]

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[63] *Laws*, 1957, p. 622.

[64] For a summary of Indiana's conflicting liquor controls, Indianapolis *Star*, May 12, 1963.

[65] *Laws*, 1963, pp. 524-26; *ibid.*, 1967, pp. 426-27.

[66] *Ibid.*, 1971, pp. 402-3; *ibid.*, 1973, gender clause, 291, Sunday sales by drink, 455-59. For the golf course and bowling alley legislation, Indianapolis *News*, April 12, 1972, and Indianapolis *Star*, September 3, 1975.

For almost a century prior to 1933 advocates of state-enforced temperance or prohibition were a majority in the Indiana General Assembly. Political parties might differ on the particulars, citizens might be wet or dry, but few questioned the state's absolute right to regulate the consumption of alcohol. During that time the legislature persistently tried and failed to eradicate by law the abuse of alcoholic beverages. During the prohibition era those who believed mankind must never be allowed to consume an alcoholic drink controlled the state's lawmaking and law enforcement machinery. The penalties of Indiana's Wright law were the most draconian in the nation. The more bizarre provisions of the state liquor code from the 1930s to the 1960s were the residue of this "dry" sentiment. Although it was legal again to consume alcoholic beverages, lawmakers would make their consumption difficult. Thus, in Indiana, all patrons must be seated while drinking but women could not be seated at a bar; dancing and juke boxes were prohibited in barrooms but legal in clubs and hotels; liquor stores could sell whiskey, brandy, rum, or wine, but they could not sell beer. By the early 1970s a modicum of liberality and simplicity had been restored to the state's beer and liquor code and control of liquor traffic was no longer the pervasive issue that it had been for better than a century. By the early 1980s, when the ABC had difficulty defining a grocery store or a drugstore for the purpose of dispensing alcoholic beverages, a growing number of citizens and legislators questioned the need to continue the agency.

Registering and Licensing Motor Vehicles

The registration and licensing of motor vehicles proved as pervasive and controversial an issue in the General Assembly between 1931 and 1969 as attempts to control alcoholic beverages had been. The issues were similar in that each involved the state in regulating, for the general health and safety of citizens, a product of mass consumption. Both also involved the collection of millions of dollars annually in fees and taxes. In the 1930s Paul V. McNutt politicized these collections for the financial benefit of the Democratic party. The licensing of alcoholic beverages and motor vehicles did differ in one fundamental respect: in the early 1950s a bipartisan effort removed the former as a source of forced contributions to the political party of the governor. Since McNutt's administration, however, the fees collected on automobiles and trucks have provided millions of dollars of income annually for the party of the governor regardless of whether a Democrat or a Republican held the office. The amount siphoned by the parties increased during each decade as more and more Hoosiers purchased automobiles. The flow of cash into party coffers and into the state treasury reached staggering proportions by the 1960s and was even greater than the monies collected from the sale of beer and liquor. The collection of motor vehicle fees and taxes also occasioned at least one major scandal during almost every administration between 1933 and 1969. Both parties profited about equally from the system, and both parties contributed about equally to the scandals.

The General Assembly of 1905 passed the first motor vehicle bill to become law. The act imposed speed limits and required that each vehicle be registered

with the office of the secretary of state. An act in 1913 tightened the registration requirements and provided that the secretary of state would furnish license plates. The act also graduated the fees for registration according to a vehicle's horsepower. After World War I, the General Assembly established a state Highway Commission (1919), provided for permanent automobile registration (1921), created a state police force (1921), and gradually increased speed limits. The fees collected by the Automobile Department of the secretary of state's office increased, of course, as the number of automobile registrations zoomed from less than 5,000 in 1905, to 33,067 in 1920, to nearly a quarter of a million in 1929. The revenue from fees reached the million dollar mark annually in 1917, leading the Indiana *Year Book* to state: "There has been a constant and substantial increase in the receipts of the department, and the money applied to the public highways has brought about such splendid results that the automobile license fee is now cheerfully paid." In 1929 receipts from automobile fees collected by the secretary of state's office totaled nearly $3 million.[67]

The General Assembly of 1931 was split between a Democratic House and a Republican Senate. Although there was much partisan bickering as a result, both parties agreed to simplify the registration of automobiles because of the great increase in their number. Apparently neither party intended to gain a partisan advantage with an amendment to previous motor vehicle acts that allowed the secretary of state to establish branch offices for issuing license plates and titles. The act stipulated that a 25 cent service fee would be paid to the person or persons in charge of such offices for every license and title issued. This was the first mention in the statutes of branch offices to distribute license plates, with managers entitled to a fee for their services. The 1931 act gave the color of law to Indiana's unique license branch system, a system that probably originated in the 1920s.[68] When McNutt implemented his executive reorganization in 1933, he transferred all control over automobile fees to his newly created Department of the Treasury. He thereby stripped the secretary of state of all voice in the matter and placed control over license branches in the hands of a commissioner of

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[67] *Laws*, 1905, pp. 202-5; *ibid.*, 1913, pp. 779-95. For a brief summary of motor vehicle laws from 1905 to 1977, see Ralph W. Van Natta, *The Indiana Bureau of Motor Vehicles: History and Organization* (Indianapolis, 1977), pamphlet in Motor Vehicles clipping file, Indiana Division, ISL. See also Indianapolis *Star*, January 6, 1974; Indiana *Year Book*, 1917, pp. 41-43, quotation, 43.

[68] *Laws*, 1931, pp. 600-5, branch office and service fee provisions, 601. The origin of the branch system has been the subject of contradictory testimony. Newspapers since the 1940s stated frequently that branches dated "from the 1920s." The state commissioner of motor vehicles wrote in 1977 that the system "began in the 1920s when auto license branches were established to distribute license plates." In 1981 the Indianapolis *Star* opted for the early 1950s as the point of origin: "The branch system was created as a patronage operation nearly three decades ago, and has become a fixture of political life in Indiana." The *Star* was mistakenly more specific in 1984 when it reported that "the core of the system" had remained unchanged "since the 1945 Indiana General Assembly effectively placed the 182 license branches under the control of the political party of the governor." Van Natta, *Indiana Bureau of Motor Vehicles*, 3; Indianapolis *Star*, September 20, 1981, January 8, 1984.

motor vehicles named by the governor. The 1935 legislature formalized what the governor had already done.[69]

By 1941, when a Republican legislature reached for the "Auto Fee Gravy," there were at least 149 license branches bringing in an income of at least $500,000 a year to be split by the Democratic party and deserving Democratic branch managers.[70] Republicans had to wait until 1945, when they captured the governor's office, to take over the system. In that year the legislature created the Bureau of Motor Vehicles administered by a commissioner empowered to establish license branches "as he may deem necessary." The designation of the branches as private businesses that contracted to distribute license plates for the Bureau of Motor Vehicles, although such branches were not agencies of the bureau, originated with the latitude given the commissioner. The corollary—that license branches were in no way state agencies—was fictitious, but it was a distinction without a difference. The branches were in fact, in the words of James G. Newland, Jr., of the Indianapolis *Star*:

> . . . quasi-governmental agencies that carry out a state function through privately operated franchises. Franchises are controlled by the party of the governor and only members of that party are given franchises. In return, the branch operator agrees to remit part of the profits to the party.

The act of 1945 specified that the commissioner would be appointed by the governor. In practice, since 1945 appointment as commissioner has been one of the most sought after patronage plums in each administration. The act formalized by law what essentially had been the practice of the Democratic party since 1933.[71]

By the mid-1950s, the number of license branches had increased to 178 and the amount earned annually in fees by branches exceeded $1.5 million. For example, during the first nine months of the administration of Governor Harold W. Handley in 1957, Marion County branches grossed nearly $350,000 in fees, Allen County more than $86,000, South Bend in excess of $72,000, and Vanderburgh County branches more than $50,000.[72] This money was divided between the branch managers in each county and the county chairman of the governor's political party. Each chairman in turn "contributed" some of his profit to the party's state central committee.

The branch system was the most widely criticized source of patronage during the era and remained so in the mid-1980s. Most citizens and a majority of politicians in the party that did not hold the governor's office decried the system

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[69] *Laws*, 1933, pp. 769-70; *ibid.*, 1935, pp. 129-31, 312-17.

[70] Indianapolis *Times*, December 27, 1941. The money came from fees collected for titling and licensing more than three quarters of a million automobiles and trucks annually. The annual registrations of motor vehicles exceeded the million mark in 1948, the two million mark in 1959, and the three million mark in 1968. "Motor Vehicle Registration Table," Motor Vehicles clipping file, Indiana Division, ISL; Indianapolis *News*, October 6, 1971.

[71] *Laws*, 1945, pp. 1308-66, especially sec. 6, p. 1314; Newland quotation, Indianapolis *Star*, April 9, 1981.

[72] Indianapolis *Times*, January 5, 1956; Indianapolis *News*, November 18, 1957.

because motorists were forced to support it. Typically, however, political critics became supporters when their party held the reins of government. Thus, state Senator Harold W. Handley opposed the branches in the 1940s when Democrat Henry F. Schricker was governor. In 1956, as Republican governor-elect, Handley merely said he'd like to see more auto license branches to serve the public during rush periods of business. During Handley's administration, Democratic Senator Matthew E. Welsh was an outspoken critic. In 1961, however, Governor Welsh opposed legislative action to get the parties out of the branch business. "The present system [is] a means of compensating party workers for the job they do in keeping political organizations active and efficient," said Welsh. "These people must have some incentive to remain active." Handley and Welsh both came to recognize that the license branch system meant big money to the governor's party. The other party always complained outwardly, but inwardly consoled itself that its time would come again. In 1964 the Indianapolis *Star* articulated what many nonpoliticians felt: "The state in effect extorts political contributions from motorists, since the party in power requires a rake-off . . . from branch managers if they wish to keep their branches."[73]

In 1959 the legislature amended the Motor Vehicle Code to provide that auto owners must show property tax receipts before a branch could issue them license plates. The tax, assessed on the basis of the age and weight of the vehicle, could run from a few dollars for a lightweight old jalopy to as much as $200 a year on newer, fully equipped models. The amendment led to an increase of more than $20 million in delinquent tax collections for the counties each year. In Marion County the amendment also led to a scandal involving upwards of 10,000 people in alleged cases of forgery, bribery, and conspiracy to obtain plates without paying the tax.[74] Despite the scandal, the highest elected officials of both parties insisted that the legislature take no action to reform the license branch system. Democratic Governor Welsh, whose party was the culprit this time, noted accurately that the legislature looked at this matter in every session "and always has concluded that the [license branch] system is probably as good as any they could devise." Republican Lieutenant Governor Richard O. Ristine, who hoped to become Governor Ristine in 1965, supported Welsh's stance. "There was a time when I felt differently about patronage in the operation of the license branches . . . ," said Ristine. "But now I'm convinced that patronage is good. It provides more incentive for county chairmen to do a good job."[75]

Demands for license branch reform reached fever pitch in the mid-1960s. In 1963 a bill passed the Senate that would have turned the job over to county treasurers, with the profits going to the county treasuries instead of party machines. Republican state chairman H. Dale Brown fought the bill and it died in a House

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[73] Handley quotation, Indianapolis *News*, December 4, 1956; Welsh quotation, Indianapolis *Times*, February 19, 1961; extortion quotation, Indianapolis *Star*, March 1, 1964.

[74] For increased collections of delinquent property taxes, Indianapolis *Times*, May 24, 1961; for the scandal, Indianapolis *News*, March 17, 1963.

[75] Indianapolis *Times*, March 15, 1964.

committee.[76] In 1968, with Democrat Roger D. Branigin in office, three Marion County Republican legislators proposed a six-point plan to streamline the system. Point number one was elimination of the auto license branches. Freshman Representative John M. Mutz spoke for the reformers and said that if patronage were eliminated with respect to the branches, persons who drove automobiles would no longer have to make a contribution to the political party in power.[77] At the 1969 session, with Republicans in control of both houses and Republican Edgar D. Whitcomb sitting as governor, the legislature "reformed" the system by substituting an auto excise tax for the property tax requirement. The law not only kept the branches, it assured them of "a bonanza of more than $1 million a year." As approved by conference committees before going to the governor, the bill allowed the branches to charge 50 cents as a service fee for each motorist paying the excise tax. This was in addition to the 50 cents collected for providing the license plates.[78]

As the era ended, license branches promised to be more profitable than ever for the party in power and it was the turn of some out-of-office Democrats to lead demands for reform. An Indianapolis newspaper reporter, Stephen B. Howick, aptly summarized a situation that has prevailed for half a century:

> Those people back of the windows in the auto license branches are politicians.
>
> Sometimes they're Democrats and sometimes they're Republicans. But always, they're politicians.[79]

Howick's words were true when written in 1964. They remained true in 1969. They have been true since at least 1933 because that was exactly how a majority in each General Assembly wanted it to be.

Indiana's unique license branch system remained controversial during the 1970s. In addition to instances of racketeering, theft, and illegal sale of drivers licenses, there were recurring allegations of other criminal activities, including blackmail, involving branch managers and Republican county chairmen.[80] As a result, demands for branch reform became the chief rallying point for out-of-power Democrats. In 1984 Democratic gubernatorial candidate W. Wayne Townsend made the branches his chief issue in that year's election. When Townsend, a state senator from Blackford County, nearly upset Republican incumbent Governor Robert D. Orr, Republicans took notice. Orr seemed especially concerned and asked the 1985 legislature, controlled by Republicans, to make the branches agencies of the Bureau of Motor Vehicles. Legislators could not agree on how to accomplish this during the "long session," however, and no legislation resulted. On the eve of the "short session" in 1986 Democrat Louis J. Mahern of In-

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[76] *Senate Journal*, 1963, pp. 265, 405-6; *House Journal*, 1963, pp. 574, 691; Indianapolis *Star*, March 1, 1964.

[77] Indianapolis *News*, September 19, 1968.

[78] *House Journal*, 1969, pp. 303, 857, 1206, 1208, 1282-88, 1292, 1316, 1329; *Senate Journal*, 1969, pp. 1045, 1128, 1380; *Laws*, 1969, pp. 1805-13; Indianapolis *Star*, March 12, 1969.

[79] Indianapolis *Times*, March 15, 1964.

[80] "Branches serve parties, not people," and "Tag offices often hit by scandals," Indianapolis *Star*, September 20, 1981.

dianapolis, assistant Senate minority leader, iterated a half-century truism regarding the issue. First, Mahern credited Orr with sincerity in wanting reform. "However, there are still mossbacks in the Republican party with the attitude, this governor is not going to be around forever." According to Mahern such Republicans felt that, with luck, the license branch system would be preserved. "And, I might add," Mahern concluded, "some Democrats favor retaining the current system, figuring they and their county chairmen may hit the jackpot someday."[81]

The Second World War

In 1943, for the first time since the Civil War, an Indiana legislature convened while the United States was at war. The historical circumstances for the 83rd General Assembly were similar to those for the 43rd of 1863 insofar as one party controlled both houses while the other controlled the governorship. In 1863 Republican Governor Oliver P. Morton faced a Democratic legislature; at the first session during World War II Democratic Governor Henry F. Schricker faced a Republican legislature. One difference was of immense importance: in 1943, unlike 1863, both parties were united behind the nation's war effort. Thus, while the 1863 session proved to be one of the most rancorous and divisive in the state's history, the session of 1943 was one of the most harmonious and least controversial. Although little of real importance came from the Indiana General Assembly as a result of the Second World War, the conflict did affect the General Assembly in a number of ways: it occasioned numerous resignations due to military service; it noticeably increased the number of women who served at the sessions; and programs for returning veterans became a primary concern.

Four senators who had served in 1941 resigned before the 1943 session because of military service. The four included President *pro tempore* William E. Jenner, a future United States senator, and Harold W. Handley, a future governor. At the 1943 session, two senators and five representatives were absent for either part of the regular session or for the special sessions because of military service. The House absentees included another future governor, Matthew E. Welsh of Vincennes, who missed the special sessions because of service in the United States Navy.

At the prewar 1941 session only two women served, both in the House of Representatives. Since eligible males were in military service by 1943, more women served at the session than ever before. They included Arcada S. Balz of Indianapolis, the first woman to serve in the state Senate. She was elected in 1942 to complete the term of Edward J. Green who was on active duty with the

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[81] "Orr's license branch reform faces problems," Indianapolis *News*, January 3, 1986. As of the date of publication of this history there were signs that the branch system may be reformed after more than a half century of controversy. In 1986, at the behest of Governor Orr, the legislature empowered a bipartisan commission of five persons to operate ten "pilot branches" beginning in January, 1987. If the experiment works, the plan is to make all license branches state agencies staffed by state employees beginning in January, 1989.

navy. Six women representatives were elected in 1942, including Elizabeth W. Downing of Indianapolis and Ida R. Wilson of Warrick County. Downing replaced her husband on the ballot after he was called to active duty and Wilson agreed to run after her county chairman convinced her that service in the legislature was the best way for a woman to serve her country during the crisis. In 1944 Balz was reelected to the Senate and five women were elected to the House.[82]

One war-related bill in 1943 was reminiscent of the partisan Republican attack during the 1940s against federal aid and welfare programs. It would have imposed a thirty-five mile per hour speed limit on the state's highways to conserve gasoline. This move was recommended by the federal government as a war emergency measure and was pushed in the Senate by Republican President *pro tempore* Thurman A. Biddinger. Senator Von A. Eichhorn, a Democrat from Uniondale, argued vigorously against the measure. According to Eichhorn the proposal would set up "more federal snoopers" and, according to a reporter who summarized Eichhorn's position, was just one more example of the "myriad federal rules and regulations being imposed in the name of the war effort." Eichhorn's argument was more in keeping with the Republican party's stance on states' rights than the philosophy of his own party, and the Republican-controlled Senate sided with him to defeat the measure by a vote of 16 to 29.[83] The country's participation in the war also occasioned two special sessions during 1944. The first exempted all Indiana citizens serving in the armed forces from poll taxes and allowed them to vote by absentee ballot in the primary and general elections. The second changed the hours of voting in the general election for the convenience of those who worked overtime shifts in war industries.[84]

In 1945 one measure inspired by the war whipped through both houses with bipartisan support: it passed within thirty-eight hours under suspension of the rules and accorded unqualified privileges in public accommodations to blind persons and their guide dogs. The measure was introduced after an Indianapolis Marine Corps veteran, Thomas C. Hasbrook, was refused admittance with his seeing-eye dog to restaurants and theaters in the capital city. Hasbrook, blinded by a land mine in a training exercise, appeared before the legislators to thank them for their swift action. Both he and his dog would return to the General Assembly in the 1950s when Hasbrook served terms in the House and Senate.[85]

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[82] Balz, Downing, and Wilson files, Centennial History, ISL. Downing was prouder of working in war production at the Link-Belt Company than of serving in the legislature. Forty years after her one term she still boasted how she wrote an "original Productioneer Song" for her company's War Production Drive Committee: "The hum of the motors—the chant of the men,/We're all in the trenches, This war we must win!/Our production we must double for the boys over there,/For battle on land, and for battle in air!/Three cheers for our lads who with guns in their hands/Go forth on the fields to protect our fair lands./Their all they would give that their loved ones might live,/SO SAY—SPEED PRODUCTION TODAY!"

[83] *Senate Journal*, 1943, pp. 74, 133, 174-75, 190; Indianapolis *News*, January 29, 1943.

[84] *Laws*, 1944 (s.s.), 6-32, 40-44 (bound at the beginning of *Laws*, 1945, Vol. 1).

[85] *House Journal*, 1945, pp. 517-18, 579; *Laws*, 1945, pp. 62-63; Indianapolis *Times*, February 15, 16, 1945. In 1955 Hasbrook and his dog were joined at the session by Representative Charles T. Rachels and his seeing-eye dog. Rachels, of Mount Vernon, lost his sight at the Battle of Okinawa in July, 1945. *Ibid.*, January 9, 1955.

The most poignant scene in the General Assembly growing out of World War II occurred on March 1, 1945. On that day Speaker W. Hobart Creighton read a letter from Representative Gene Eckerty of Princeton, the only incumbent legislator "fighting on the Western Front." Eckerty served at the 1943 session, was drafted, and was reelected by his constituents in 1944 even though he was in service. In his letter to Creighton, Eckerty asked for special legislation to help combat veterans. According to Eckerty, the American GIs were God-fearing, Bible-reading soldiers, like a friend of his whose life was saved when a bullet hit the New Testament in his breast pocket. Despite Eckerty's plea, the legislators of 1945 did not act on a benefit program for veterans. Shortly after the session ended on March 5, it was learned that Gene Eckerty died in Germany on February 25, the only member of the General Assembly to be killed in action during the war.[86]

The residuum of World War II affected proceedings in the General Assembly for several years after the war. At the first session after the bombing of Hiroshima a heated exchange occurred between two Lake County Democrats over the issue of atomic energy. Senator Charles F. Fleming of Hammond introduced a bill to outlaw making, possessing, or using atomic bombs in Indiana "except for military purposes." Senator Edmund Makowski of East Chicago attacked Fleming's bill as "frivolous" and said his colleague had read "too many comic strips." According to the press, Fleming replied that his reading was "of a more serious nature" and it had led him to believe that Indiana would need "an anti-atomic bomb bill as atom-splitting becomes a cheaper and cheaper process." Fleming's bill was defeated on third reading by a vote of 4 to 30.[87]

A proposal to enact a veterans' bonus enjoyed more success in 1947. The favorable public response to the national GI Bill of Rights passed by Congress in 1944 led the American Legion to lobby hard for a state bonus. The General Assembly responded by putting the following referendum to the voters at the 1948 general election: "Do you favor the payment of a state soldiers' bonus for veterans of World War II?"[88] Voters subsequently approved a bonus by a two to one margin and it fell to the 1949 session to spell out the particulars. Arguments on the merits of a bonus, and how to finance it, were heated. The Service Club of Indianapolis, composed of veterans of both world wars, surprisingly deplored the whole idea. The club circulated a petition to all legislators seeking defeat of a bonus on grounds that tax money could be put to better use. The club also argued the amount of money would be so small that it would be of little benefit to veterans.[89] The legislature nonetheless passed a bill to pay up to $600 to each veteran (the exact amount depended upon length of service) plus an additional $100 for disabled veterans.[90] Despite predictions that the $25

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[86] Eckerty letter, Indianapolis *Times*, March 1, 1945; date and circumstances of death, Eckerty file, Centennial History, ISL.

[87] *Senate Journal*, 1947, pp. 264, 413-14, 464, 901; Indianapolis *Star*, February 18, 1947.

[88] *Laws*, 1947, pp. 475-77.

[89] Indianapolis *News*, January 20, 1949.

[90] *House Journal*, 1949, pp. 107, 335, 479, 569-80, 605-6, 994-95, 1119, 1128-35; *Laws*, 1949, pp. 1025-34.

million expenditure would bankrupt the state, veterans received their money in the early 1950s with little noticeable effect on the state's budget.

Daylight Saving Time

The intrinsic importance of an issue cannot always be measured by its ability to fuel the passions and raise the level of acrimony of legislators and the public. Reapportionment, the controversy over slavery, and regulation of alcohol are examples of important issues that have done both. The fight over Sunday baseball, which lasted nearly two decades, is an example of a lesser question that became important because of the rancor it engendered and the time and effort expended upon it by successive sessions. Daylight Saving Time was an aftereffect of the two world wars that clearly fits in the latter category. In 1949, and for two decades thereafter, the General Assembly tied itself in knots because citizens and their lawmakers fought over the question of how to set clocks.[91]

Congress had enacted a Daylight Saving Time bill in 1917 to conserve fuel and electricity during World War I. Under this legislation the nation's clocks were set ahead by one hour from January 1, 1918, until August 20, 1919. City dwellers in Indiana liked the extra hour of daylight, especially during the summertime. As a result, almost every year during the 1920s and 1930s, many city councils wrestled with the idea of setting the clocks ahead for five or six months. World War II gave added impetus to proponents of Daylight Saving Time as Congress, following the World War I precedent, decreed "fast time" (or "war time") for the entire nation from February 9, 1942, until September 30, 1945. After the war ended, urban areas were determined to keep "fast time" each April through October. Rural folks, however, said "no": it was "unhealthy for cows," it violated "God's time," it was "unnatural." Between 1946 and 1948 town and countryside in Indiana split into irreconcilable factions over Daylight Saving Time. Not a noteworthy issue in the general election of 1948, the question exploded in the General Assembly of 1949.

With the legislature split between a Republican Senate and a Democratic House, a heated legislative session was widely predicted. The passions unleashed by Daylight Saving Time, however, were totally unexpected. Neither the politicians nor the press took particular notice on January 19 when Senators Oscar B. Lane (a Putnam County Republican) and Dale E. Beck (a Cass County Democrat) co-sponsored a seemingly innocuous bill to make Central Standard Time the

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[91] Perhaps neither citizens nor lawmakers should be criticized too much for disputing how to set time. Technological developments in measurement from the late nineteenth century to the 1960s revolutionized the concept of time until 1967 when the General Conference on Weights and Measures detached the second entirely from the celestial clock by defining a second as "9,192,631,770 periods of the radiation corresponding to the transition between the two hyperfine levels of the ground state of the cesium-133 atom." David S. Landes, *Revolution in Time: Clocks and the Making of the Modern World* (Cambridge, Mass., 1983), 186-87. Landes added "No one knows what time is; certainly no one knows how to define and explain it to the general satisfaction. But we sure know how to measure it."

official time in the state. The bill passed without controversy by a 38 to 12 margin. When the Lane-Beck bill reached the House, however, big city representatives joined forces regardless of party to "save" Daylight Saving Time. The first full-dress filibuster in state legislative history occurred amidst "the wildest and most disordered legislative meeting in many years." For four days, party lines disintegrated as urban and rural legislators shouted and screamed—even offered to fight—over the time issue.

Spokesmen for the cities, who lacked the votes to defeat the bill, wanted to stall until after midnight of March 4, the deadline for passage of bills. Then, theoretically, it would take a two-thirds majority and suspension of the rules to get the bill through. Sometime before midnight, in the midst of shouting, shoving, and filibustering, Jefferson County Representative Herbert Copeland went to the gallery, leaned over the edge, and forced the hands of the official clock back to 9 p.m. Copeland, a champion of rural Indiana, apparently broke the mechanism, which remained set at 9 p.m. until repaired after the session. In retaliation, someone turned off the lights plunging the chamber into darkness. Speaker Robert H. Heller ordered doorkeepers to turn the lights back on while demands to "clear the floor" rang out as lawmakers and spectators milled about and intermingled. At 3:30 a.m., three and one-half hours past the deadline for the passage of bills, but still 9 p.m. by the "official" clock, the filibusterers lost the floor. The bill outlawing Daylight Saving Time then passed 60 to 20 with nineteen representatives not voting. The bill had two major shortcomings: there were no penalties imposed upon violators and no provision prohibiting private citizens and businesses from using any time they desired.[92]

Cities ignored the legislation and went on whatever time local preferences dictated. For the next eight years an Indiana time map resembled a crazy quilt of zones: Central Standard Time, Eastern Standard Time, Fast Time, Slow Time, Daylight Time, and even "double fast time" for cities that opted for Eastern Standard during the winter and Eastern Daylight during the summer, were observed in different areas of the state. Citizens and legislators used the controversy to unburden themselves about the relationship between time and their pet peeves. As the Indianapolis *Star* noted in 1953, in some minds Russian slave labor, the New Deal and the Fair Deal, parking meters, juvenile delinquency, socialized medicine, legislative reapportionment, unfairness to landlords, the sellout of Manchuria, golf, the degeneration of the educational system, Nazism, communism, and nudism were connected to the time issue. "Each expression started with a discussion of proposed time changes followed by a leap into the writer's pet subject, which he somehow managed to relate to time."[93]

The General Assembly did not touch the issue again until 1957. By then cities like Indianapolis and Fort Wayne were on Daylight Saving Time twelve months a year. The act of 1957 made Central Standard Time the state's "official"

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[92] *Senate Journal*, 1949, pp. 44, 103-4, 110, 125-26, 132-33, 898; *Laws*, 1949, p. 384; Indianapolis *Times*, March 5, 1949.

[93] Indianapolis *Star*, February 8, 1953.

time but allowed Daylight Saving Time from the last Sunday in April to the last Sunday in September for any community that wanted it. City, county, state, and school officials who failed to observe the law's provisions could be fined and jailed. Remembering the fiasco of 1949, the act also provided that any community refusing to go on Central Standard Time from September to April every year would lose state aid.[94]

Senator Arthur S. Wilson, a Democratic farmer from Princeton who sponsored the bill, boasted that the measure "will end the chaos, discord and confusion" that reigned in Indiana "as a result of the various times now in use." Wilson was wrong: the act proved unenforceable. Cities wanting year long fast time, prompted by attorneys, found "state aid" defined in Indiana statutes as money granted for welfare, poor relief, and similar uses. The denial of state aid to communities offending on the time issue was therefore "unconstitutional" and fast time advocates dared the state to test the law in court. At first determined to enforce the law, Governor Harold W. Handley backed down when his attorney general, Edwin K. Steers, in essence agreed with the argument of the "fast time" lawyers.[95] The ultimate absurdity arose in the fall of 1958 when a citizen visiting the State House discovered that the time of day depended upon what office one visited. Governor Handley's executive-controlled offices had one time, those of Secretary of State Frank A. Lenning had a second, while the state Supreme and Appellate courts operated on yet a third.[96] The General Assembly of 1961 mercifully ended this situation with a one-sentence enactment: "The above entitled act, being Acts 1957, Chapter 172, is hereby specifically repealed."[97] The state was without an official time law for the first time since 1949.

Some other states experienced similar confusion over time and in 1966 Congress passed a Uniform Time Act. The act, mandatory unless the General Assembly provided otherwise by law, placed Indiana in the eastern time zone. The 1967 session passed, and Governor Roger D. Branigin signed, an act requiring conformity to the federal law except that any county could go on "local time" without penalty.[98] When larger cities opted for Eastern Daylight Time ("double fast time") during the summer, the state seemed headed once again toward chaos. The General Assembly of 1969 therefore passed a law placing eighty counties on Eastern Standard Time year round. Six counties in the northwestern corner of the state and six in the southwestern corner could remain on Central Standard Time during the winter and Central Daylight Time during the summer. When the bill was vetoed by Governor Edgar D. Whitcomb, he was accused of selling out to "the television lobby." Television stations in larger cities wanted Eastern Daylight Time during the summer for programming agreement with the networks

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[94] *Senate Journal*, 1957, pp. 175, 218-19, 290-91, 347-49, 384, 837, 872, 927, 1020; *Laws*, 1957, pp. 356-58.

[95] Wilson quotation, Indianapolis *Star*, January 23, 1957; Handley and Steers actions, Indianapolis *Times*, September 23, 25, 1957.

[96] Indianapolis *Star*, September 11, 1958.

[97] *Laws*, 1961, pp. 11-12.

[98] *Ibid.*, 1967, pp. 902-3.

and the advertising revenue such scheduling would mean. The South Bend Press Club lampooned the situation at its annual Gridiron Dinner with a parody of "On the Banks of the Wabash," the state's official song:

> If it's Eastern time tonight along the Wabash
> Is it Central time along the Kankakee?
> Do you go to bed at night or in the morning?
> Newlyweds are exempted, naturally.
> Oh, the sun is bright tonight along the Wabash
> Though it's 10 p.m. it's shining constantly
> And by noon the moon will shine again tomorrow.
> Give your thanks to our leader, Edgar D.[99]

The 1971 legislature repassed the 1969 bill over Whitcomb's veto and the act has remained the state's basic time law. The override passed the Senate by a bare constitutional majority of 26 to 22 because President *pro tempore* Phillip E. Gutman of Fort Wayne switched from "nay" to "aye" on the final roll call. Gutman said his vote change was based partly on the sentiment that "if we could save the life of one child" by dispensing with daylight time he favored an override.[100] Indiana thus joined Arizona and Hawaii as the only states remaining on Standard Time during the summer. Twelve counties in the northwest and southwest corners of the state legally observed Central Standard and Daylight Time on the same schedule as Illinois. Five counties adjacent to Louisville and Cincinnati shifted to Eastern Daylight Time each summer to stay on the same schedule as their metropolitan neighbors but left their courthouse clocks on Standard Time to conform with the law. In the early 1980s the question of whether or not the General Assembly would "Unleash [the] Old Time Dragon" remained open. Proposals to put the state on Eastern Daylight Time each summer surfaced at the 1983 session but legislators, remembering the bad old times, voted them down handily.[101]

The Cold War

The Cold War of the late 1940s and 1950s was by far the most important aftereffect of World War II in terms of time and attention for the General Assembly. During these years anticommunism took on almost crusade-like intensity in the legislature. Although the disintegration of the wartime alliance with the Soviet Union by 1946 was clearly the immediate cause of the phenomenon, legislative anticommunism in Indiana actually dated from the decade of Republican ascendancy after World War I. The first manifestation was the cry for "100

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[99] Indianapolis *Star*, March 15, 1969; South Bend *Tribune*, April 22, 1969.

[100] Gutman quotation, Indianapolis *Star*, January 26, 1971; *Laws*, 1969, pp. 56-57 (bound at the beginning of *Laws*, 1971, Vol. 1). Proponents of slow time argued that school children would be in danger if Eastern Daylight Time were allowed because they would be going to school in darkness every morning. Hence, Senator Gutman's reference to saving the life of "even one child."

[101] Indianapolis *News*, December 22, 1982, January 7, 1983; Indianapolis *Star*, January 26, 1983.

Per Cent American" legislation in 1919, illustrated by the rash of laws and proposed laws against Bolshevism, criminal syndicalism, and foreign influences. The Americanism of the post-World War I era reached its climax with a law in 1929 that required public school teachers and faculty in state colleges to swear their loyalty to the state and the nation.[102] In the 1930s anticommunist sentiment in the legislature was fueled by Republican opposition to Democratic social programs. For twenty years after 1933, Republicans disliked "that man" in the White House whether it be Franklin Roosevelt or Harry Truman. They were also antagonized by the impact of federal programs on state spending. Historically nativist, anti-union, rural-oriented, and suspicious of Washington, D.C., Republicans were thus hostile to much of the New Deal coalition. Democrats, on the other hand, had their major strength in the cities. They supported welfare programs, unions, ethnic minorities, and civil liberties. But because of the failure to reapportion until the 1960s, Democrats were under-represented in the General Assembly. In this context anticommunism became a political vehicle exploited mainly by the Republican party. Frequently, Democrats went along rhetorically lest they appear to be "soft on communism."

An early instance of the Republican tack occurred in the mid-1930s when the legislature considered the Child Labor Amendment to the United States Constitution. This brief amendment, passed by a Republican Congress in 1924 during Calvin Coolidge's presidency, gave Congress the power to "regulate the labor of children under 18 years of age." Opponents argued that the measure, by specifying "labor" rather than "employment," would usurp the rights of parents, especially farmers, over the labor of their children. When the issue came before the Indiana legislature in 1935 twenty-two states had approved the amendment. Republicans opposed ratification, claiming the amendment was just one more manifestation of "McNutt-New Deal socialism." According to House minority leader Herbert H. Evans of New Castle, "The proposition is redder than the reddest flag ever carried down the streets of Moscow." Evans charged that "four Communist women who never had any children" wrote the amendment and he concluded that, if ratified, it would "set up a national bureau of old maids and female tyrants who will scour the country and regiment all of our young." The ratification resolution passed the House 66 to 29 in spite of Evans' rhetoric and the Senate concurred 33 to 12. The vote made Indiana the twenty-third state to ratify the proposal. Eventually twenty-nine states ratified the amendment, seven states short of the required thirty-six, and the Child Labor Amendment never became part of the Constitution.[103]

Anticommunism became a pervasive issue when the Republican party regained control of the General Assembly in 1941. The party, after a decade as

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[102] For the postwar Americanism legislation, see above, pp. 304-6, 394-95.

[103] Indianapolis *News* and Indianapolis *Times*, February 7, 9, 1935; *House Journal*, 1935, pp. 224, 335, 386-87, 436, 451; *Laws*, 1935, pp. 1555-56. The federal Fair Labor Standards Act of 1938 made the amendment moot. This act set the minimum working age at fourteen for employment outside of school hours in non-manufacturing jobs, sixteen for employment during school hours in interstate commerce, and eighteen for occupations deemed hazardous by the secretary of labor.

a legislative minority, moved to control or to dismantle many of the Democratic programs initiated during the 1930s. Control received first priority and the opening battle revolved around an attempt to deprive the Democratic governor, Henry F. Schricker, of his more lucrative patronage appointments. While unsuccessful, the attempt stands as one of the bitterest conflicts between the executive and legislative branches of government in the state's history.[104] The anticommunist factor appeared as an effort to dismantle the state's welfare system, a system that Senate President *pro tempore* William E. Jenner regarded as Marxist-inspired. Vociferous anticommunism and intense partisanship marked Jenner's subsequent career on both the state and national levels and he exhibited both on this occasion. Simply dismantling the state Public Welfare Department proved impossible: it was too cumbersome an agency, with programs too firmly entrenched, to be simply abolished. Instead, the session created a joint committee to investigate welfare administration and report its recommendations to the 1943 legislature. Jenner appointed John W. Van Ness of Valparaiso chairman of the committee.

Following extensive hearings in 1942 Van Ness' report to the 1943 session was designed to confirm the worst Republican suspicions. The report contained charges that the Welfare Department had spent funds lavishly, permitted the dissemination of communistic doctrines, condoned immorality, attempted to perpetuate itself, and pursued a program to seize control of the public schools. The findings, allegedly based upon sworn testimony of social workers and publications authorized by the Welfare Department, were damaging to the agency. "This is not a political issue, it is a problem that confronts every fair-minded citizen . . . ," said Van Ness. Minority leader J. Walter Vermillion of Anderson responded for the Democrats: "Of course the Democrats claim credit for the welfare program—it's monumental—naturally mistakes may have been made by individuals and the party is not defending those individuals," said Vermillion. "But we're not responsible for them as a party and if you think we are you're just 'all wet.'" Van Ness recommended that the problem be assigned to a bipartisan study commission that would report back to the 1945 session. Both houses concurred but when the Republican party swept the next election in 1944 no further action was taken. Republicans replaced Democrats in all agencies, and welfare "reform" was postponed indefinitely.[105]

A Senate bill providing for multiple adoption of textbooks by public schools led to another furor over communism in 1943. The debate also illustrated the morass awaiting lawmakers who attempt to pass censorship laws. When the House committee on education reported on the bill it included a section that forbade the use of books containing "subversive sections or paragraphs encouraging the philosophies of Communism or inaccurate historical references." Jesse L. Dickinson, a black social worker from South Bend, offered an amendment thinking to ban racial stereotypes and Klan-like propaganda from the state's textbooks. His amendment replaced the reference to communism with a prohibition of any

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[104] See below, pp. 482-84.

[105] *Laws*, 1943, pp. 1063-64; Indianapolis *News*, February 16, 1943.

sentences or paragraphs encouraging the philosophies of any person, group or political party that are contrary to any American principle, neither shall any adopted books contain any historical references, accurate or otherwise, tending to destroy the respect of our school children for the history of our country, nor shall such books [be adopted] that carry disparaging remarks concerning any portion or unit of citizens of the United States of America.

When Representative John W. Malone, Sr., of Cayuga, who was not present when the Dickinson amendment was adopted, read the change he demanded that the bill be recommitted to strike it out. Malone said history books were no good if they could not print the truth. He also warned that Dickinson's amendment could be interpreted as an attempt by the state to do to Indiana schools what Hitler did to the schools in Germany.

It would brand Indiana, along with that state that opposed the monkey-man theory (Tennessee and the Scopes evolution trial)—brand it as a backwoods and backward state if it refused to let its school children know the truth.

Upon learning of Malone's objections, Dickinson stated that he did not realize the far-reaching effect of his wording. The bill passed with the offending section removed.[106]

The anticommunist issue was relatively quiescent at the 1945 session as the "Grand Democratic Alliance" of the United States, the Soviet Union, and Great Britain was winning the Second World War; it remained so at the 1947 session despite the breakup of the alliance and the onset of the Cold War. Thanks to the American Legion in Indiana, however, anticommunism was very much alive during these years outside of the legislature. Staunchly anticommunist since its beginning in the 1920s, the Legion had lobbied to get the Communist party excluded from the ballot. In 1939 it established a standing committee on un-American activities with a twofold charge: one, the committee was to be an informal intelligence agency gathering information on "left-wing" citizens; and two, it was to educate the public in the Legion brand of Americanism. Legion exposés of un-American activities in Indiana abounded during the immediate postwar years.[107] Legion exhortations for vigilance, coupled with developments at home and abroad during 1948, assured the reappearance of legislative anti-communism. In that year the fall of Czechoslovakia in a Communist coup that included a purge of all democratic elements in the Czech government, the Berlin airlift, the revelations in the Alger Hiss case, and the pending Communist triumph in China were all factors in its revival.

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[106] *House Journal*, 1943, pp. 797, 830-31; *Laws*, 1943, pp. 700-5; Indianapolis *Star*, March 5, 1943. As passed, the bill provided for the authorization of three textbooks in each senior high school subject from which committees of local school corporations would select the book to be used in each subject.

[107] For the political climate during the post-World War II era, see Dale R. Sorenson, "The Anticommunist Consensus in Indiana, 1945-1958" (Ph.D. dissertation, Indiana University, 1980). For the Legion's activities prior to 1949, pp. 29, 30, 49-53.

In Indiana, where Democrats won the governorship and the House, Republican determination to rid the state and nation of communism by law was resurrected at the 1949 session. Representatives Harold P. Heavilon of Frankfort and Glenn R. Slenker, Sr., of Monticello prepared a bill to require teachers to deny communist affiliation under oath before they could be licensed. Heavilon made it clear that ultimately the measure would be aimed at state colleges and universities as well as elementary and secondary schools. Other legislators hinted that the Heavilon bill might also be used as a vehicle to require non-communist affidavits of all public employees on the city, county, and state levels. "First we have to lay the foundation," said Heavilon. "Indiana can become the first state to make a real fight against the Communist influences which have become a threat to our very security."[108]

In a House that Democrats controlled by a 60 to 40 margin the Heavilon-Slenker bill went nowhere. The measure was important, however, as a barometer of what Republicans might do when they returned to power. In 1950 the Korean War and the sensational charges of Wisconsin Senator Joseph R. McCarthy contributed to a Republican sweep in the mid-term elections. In Indiana at the 1951 session, with Republicans enjoying a 69 to 31 majority in the House and a 26 to 24 majority in the Senate, the stage was set for a draconian anticommunist law.

Indianapolis Republican Thomas C. Hasbrook, a blind Marine Corps veteran, and Sullivan Democrat William O. Brown, a World War II combat veteran, introduced the measure on January 12. Under its terms, all Communists and "fellow travelers" could be jailed for from one to three years. The bill also prohibited advocating, either by writing or word of mouth, the overthrow of government by force or violence; printing, publishing, editing, or distributing books, newspapers, or other documents advocating such overthrow; and associating with any group advocating such views. The law declared that it was the public policy of the state of Indiana "to exterminate Communism and Communists, and any or all teachings of the same"; it provided that "Whenever two or more persons assemble" for Communist purposes, every "voluntary participant" was guilty of a felony; and it prohibited Communists from holding public office or any city, county, or state job. The act passed 92 to 0 in the House, 46 to 1 in the Senate. The lone dissenter was Democrat Von A. Eichhorn who said the bill was an unconstitutional attack on free speech and assembly.[109]

The act of 1951 was tested in a series of cases during the next several years and its constitutionality was upheld by the state Supreme Court in 1965. In that year the high court, by a 3 to 1 decision, ruled that under the act Monroe County could prosecute three students at Indiana University who belonged to the Young Socialist Alliance. Judge Norman Arterburn, speaking for the majority,

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[108] Indianapolis *Times*, January 25, 1949. The law of 1929, requiring teachers and professors to take a loyalty oath to the state and nation, did not include a specific reference to communism or the advocacy of forceful overthrow of the government.

[109] *House Journal*, 1951, pp. 78, 598-600, 669, 736-37, 972, 1042, 1051; *Laws*, 1951, pp. 646-49; Indianapolis *Star*, January 12, 1951; Indianapolis *Times*, March 2, 1951.

said that it was not the duty of the courts to speculate upon how unwise or even "ridiculous" the legislation might appear. Likewise, he said, to test constitutional validity by a standard invoking "less drastic means" was a blatant assumption of a legislative function. The General Assembly, the court concluded, had the authority to enact such a law. The legislature also had "broad leeway and discretion" in selecting the type of legislation it thought best for the objective of controlling subversion.[110]

The law of 1951 demonstrated both how seriously the legislature took the Communist threat and the reluctance of the state Supreme Court to interject itself in a political question. Some needed comic relief was provided by an incident involving the legislature in 1953. In reporting the affair, the Indianapolis *Times* stated that "The face on the barroom floor was once a popular ballad among Indiana politicians. . . . Now, the rage is all about the murals on the Statehouse wall." The matter began simply enough on April 30, 1952, when Governor Henry F. Schricker and a bipartisan group of legislators agreed to accept a three-panel mural to decorate the front wall of the Indiana Senate chamber. The mural was a gift from the National Academy of Design, which commissioned Leon Kroll, a noted New York artist, to do the work. Kroll, in accepting the assignment, said he envisoned "something for the senators to look at when they get tired of speeches." One panel, "Agriculture," depicted the progress of farming from early times to the present. A second, "Industry," illustrated progress in manufacturing from the wheelwright to the modern airplane. The third panel, "The Framing of the Constitution," depicted a scene of Corydon and also the three state capitol buildings and their environs. Kroll said "I want to give Indiana people what they would like to look at—none of those cock-eyed abstract things that are such a bore."[111] Once in place in May, 1953, the infamous "Kroll Murals" became the most controversial State House "improvement" on record.

United States Senator William E. Jenner, ranking Republican member of the Senate Internal Security Subcommittee, informed Lieutenant Governor Harold W. Handley that Kroll was connected with "22 organizations listed as 'Communist fronts.'" Jenner took his information from the list of subversive organizations compiled in 1947 by Democratic United States Attorney General Thomas Clark. Handley and the Legislative Advisory Commission met to decide what to do. Some state officials demanded that the murals be torn down because there should be nothing in the State House created by "a pinko and left winger." Others

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[110] *State of Indiana* v. *Levitt et al.*, 246 Ind. 275; Indianapolis *Times*, January 25, 1965; Indianapolis *Star*, January 26, 1965. Judge Frederick Landis, Jr., of Logansport did not participate in the decision because he was a member of the 1951 General Assembly and had voted for the law. Judge Amos W. Jackson, in his dissenting opinion, quoted the entire text of the statute and then declared it was "unconstitutionally vague." He added that such a law "should leave no doubts as to the nature of the offense and the charge to be met." The law was repealed in 1977 as part of a general revision of the criminal code. The case against the campus group was never prosecuted further because by 1965 the three appellees were no longer students at Indiana University.

[111] Indianapolis *Star*, May 1, 1952; Indianapolis *Times*, May 1, 1952, May 10, 1953.

felt they should remain in place as long "as they don't contain propaganda."

The bipartisan group, some of whom declined to be identified because they feared either ridicule or unfavorable political repercussions, spent hours trying to determine if the Kroll murals were art or propaganda. Members of the group were not experts in either field, however, as shown by reactions that ranged from "The people in the farm picture look like Bolsheviks," to "I don't see anything wrong with them," to "He sure made that gal's legs fat." Features cited as suspicious in the farm mural included the "facts" that a stick was used to whip the animals and the features of the women were "Slovic" [*sic*]. In the industry mural, some thought the airplane was "of foreign design" while others argued whether the hammer and sickle were intended to symbolize the Soviet Union or simple tools proper to repairing a wheel and reaping wheat. In the mural devoted to the state Constitution, some noted "the foreign looking uniform" worn by a soldier.[112]

After a one hour meeting on May 11, the Legislative Advisory Commission ruled that the state would not remove the controversial murals and Lieutenant Governor Handley told newsmen that the issue was closed: "It's unfortunate this particular artist was selected. But he's still a great artist judging by his murals." Handley added "We're not about to burn great literature, music and art . . . that's the favorite trick of the Communists and the Nazis . . . and we won't fall for it." Handley also said the state was still interested in receiving three additional murals from the National Academy of Design for the House chamber.[113]

The House murals were not completed until 1963. In 1956 Speaker George S. Diener surveyed the Senate murals and said the House would take its time. "We don't want stuff like that in the House" because "it is not Hoosier art," said Diener. "The Senate can decorate itself as it pleases but I favor more appropriate scenes for the House, such as Brown County."[114] The House murals, "The Spirit of Indiana," depicted William Henry Harrison standing before a large sycamore tree overlooking the Wabash River Valley and Indiana's abundance. They were painted by Eugene F. Savage, a native of Covington, Indiana, and were accepted without controversy in the early 1960s.[115]

Anticommunist bills and resolutions continued to appear at every session in the 1950s. A House resolution in 1951 demanded that either the United Nations should "wage all-out war in Korea" or American troops should be withdrawn. Bills to establish a state Un-American Activities Commission, first pushed by the American Legion in 1949, failed in 1951, 1953, and 1955, but passed in 1957.[116] Officially called the "Counter-Subversive Study Commission," it was

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[112] Indianapolis *Times*, May 10, 1953. This issue of the paper published reproductions of the murals as a public service so "readers could conduct their own investigation."

[113] *Ibid.*, May 11, 1953.

[114] Indianapolis *Star*, March 23, 1956.

[115] Indianapolis *News*, May 15, 1963. The murals were reproduced in this issue of the newspaper. The Senate and House murals remained in place until both chambers were remodeled in the 1970s.

[116] *Ibid.*, January 12, 1951; *Laws*, 1957, pp. 1070-71.

chaired by Senator Paul J. Bitz, a Democrat from Evansville. Bitz submitted a report to Governor Handley on December 7, 1958. The report defined communism, in the hyperbolic style common to the subject, as "the greatest danger that human liberty and freedom as we know it ever has faced in recorded history." It added that there was subversion in Indiana but the extent could not be accurately measured because the commission lacked subpoena power.[117]

In 1959 the Republican Senate wanted to make the Counter-Subversive Study Commission permanent and give it subpoena power, but the measure failed in the Democratic-controlled House. House Democrats also stopped a resolution offered by Republican Chester W. Franke who wanted to know why Indiana University permitted "Communist Fronts" (among which he included the American Civil Liberties Union) to operate on campus. He also complained that there was no course offered at the university during 1958-1959 in Indiana history, but sixteen courses were offered on the history of Russia, China, and other non-Western cultures. Indiana University must be reestablished as "a citadel of fundamental and constructive learning," said Franke, "free from the alien ideologies and agitation of groups which espouse such." Given the financial dependence of public universities upon the legislature, Indiana University President Herman B Wells was careful to remark that he would investigate anything desired by the General Assembly. But the Franke resolution died in the House committee on education.[118]

For a variety of reasons, anticommunist fervor waned in the legislature during the 1960s. First, the pursuit of home-grown subversives became less credible after Senator Joseph R. McCarthy's censure in 1954. Also, the foreign policy of "massive retaliation" against the Soviet Union pursued by Secretary of State John Foster Dulles during the 1950s gave way to "accommodation through peaceful co-existence" while John F. Kennedy was president. Strident anticommunism was thus less acceptable to voters and less popular with politicians. Republicans were also weaker in the legislature from 1961 through 1967 than at any period since the 1930s. Democrats controlled at least one house at three of the four sessions during the administrations of Democratic Governors Matthew E. Welsh (1961-1965) and Roger D. Branigin (1965-1969). Additional anticommunist legislation thus had no chance of serious consideration during most of the decade. The court-imposed reapportionments of the decade gave much greater representation to urban areas where Democrats were strongest and the anticommunist impulse had always been greatest in rural Indiana where Republicans dominated.

The 96th General Assembly of 1969 was the 60th legislature to meet since the adoption of the second state Constitution in 1851, and the last to meet

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[117] Indianapolis *Times*, October 8, 1958; "Counter-Subversive Study Commission of Indiana to Governor Harold W. Handley," December 7, 1958, pamphlet in Un-American Propaganda Activities clipping file, Indiana Division, ISL. For the influence of the American Legion and the work of Bitz's commission, see Sorenson, "The Anticommunist Consensus in Indiana," 194-200.

[118] *House Journal*, 1959, p. 327; Indianapolis *Times*, February 6, 18, 1959.

biennially. Beginning with the 97th General Assembly in 1971, lawmakers reverted to annual sessions, with each General Assembly convening in a sixty-one day "long session" in odd-numbered years and a thirty day "short session" in even-numbered years. Annual sessions returned because the lawmakers of 1969 submitted the question to the people who in turn approved the constitutional change at the 1970 general election. The session of 1969, therefore, was more than just the last of twenty legislatures that marked the era since 1931. It also was the last of sixty legislatures that marked an epoch lasting 120 years during which Indiana's lawmakers normally convened only in biennial sessions. Indiana was a completely rural state when the epoch began. Its legislature remained rural-dominated almost until the epoch ended. By the time federal courts ordered reapportionment in the mid-1960s the state and the nation, almost completely urbanized and industrialized, little resembled what they had been in 1851. The end of biennial sessions coincided with the demise of rural domination in Indiana's legislative process.

Chapter 14
The Constitutional and Political Context

Under the Constitution of 1851 the people of Indiana and their lawmakers had found it difficult, almost impossible, to amend the state's basic law. For more than a half century most attempts at change had been foiled by the cumbersome requirements spelled out in the document and by a series of state Supreme Court decisions. Amendments had to pass two consecutive general assemblies and then be approved by a majority of voters in a general election. Although more electors usually voted for than voted against proposed amendments, the court rejected voter-approved amendments unless they won by a margin equal to a majority of the votes cast in the election.[1] Nonetheless, the General Assembly of 1931 submitted two amendments for approval by the electorate in 1932. One authorized the state to tax incomes; the other stipulated that educational requirements would be established for admission to the bar. The legal profession, a powerful influence in the legislature, had sought since the 1890s to substitute formal legal training for the Constitution's simple requirement that anyone of "good moral character" could practice law. Voters approved both amendments in 1932 but neither won by the margin required by the Indiana Supreme Court. In 1935, in the landmark case *In re Todd*, the court reversed nearly fifty years of precedent with a ruling that the lawyers amendment was part of the Constitution because a majority of those who voted on the proposition had favored it. The reasoning in the *Todd* case also applied to the income tax amendment and meant that after 1935 it would be less difficult to amend the state Constitution.[2]

While the *Todd* ruling provided relief for one of the obstacles to constitutional change, there remained the requirement that a proposed amendment be approved by two consecutive general assemblies and a statewide referendum before taking effect. Between 1933 and 1960 only nine additional amendments succeeded. The first provided that all males (not just white males) might be members of the state militia. The amendment was introduced at the 1933 session by Representatives Henry J. Richardson, Jr., of Indianapolis and Wilfred Jessup of Wayne County. The resolution did not propose to integrate the militia but did allow blacks to serve by providing for "the organization of colored units." It passed a second time in 1935, and was approved by a vote of 426,031 to 398,201 at the 1936 general election. The amendment removed the only racial distinction remaining in the Constitution.[3] The other eight changes up to 1960 dealt with

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[1] For amendments approved by voters but rejected by the court between 1890 and 1930, see above, pp. 329-35.

[2] *In re Todd*, 208 Ind. 168-215. For the legislative history of the amendments and the 1932 vote, see John A. Bremer, *Constitution Making in Indiana* (Indianapolis, 1978), 2-6, 22-57.

[3] *House Journal*, 1933, pp. 628, 669, 754, 880-81, 1120, quotation, 1277; *Laws*, 1933, p. 1256; Bremer, *Constitution Making in Indiana*, 14-15, 20-21, 63-64; Emma Lou Thornbrough, *The Negro in Indiana Before 1900: A Study of a Minority* (Indianapolis, 1957), 250n.

more prosaic, but not unimportant, matters. Amendments approved in 1940 eliminated the double liability of bank shareholders, permitted the General Assembly to fix the liability of shareholders in corporations, and deleted the requirement that banks cease operations after twenty years. Less important were an amendment in 1948 that increased the term of sheriff to four years and amendments in 1952 that did the same for prosecuting attorneys, county treasurers, coroners, and surveyors. Amendments approved in 1960 required that circuit court judges be lawyers, and simplified the required contents of bill titles.[4]

The income tax amendment, the lawyers amendment, and the other nine that were approved amounted to only eleven of the more than 150 constitutional changes proposed between 1931 and 1959. Only these successfully negotiated the obstacles of the amending process to become law. Those that did not included several proposals embracing the controversial and politically volatile issues of state apportionment and the frequency or length of legislative sessions. Eleven legislatures considered, but failed to approve, amendments regarding apportionment. Seven legislatures rejected proposals either to lengthen the number of session days or to meet each year rather than every other year. Most of these proposals did not survive a single session let alone two consecutive sessions. Since opposition to both reapportionment and annual sessions was rooted in rural domination of the legislature, constitutional change in both areas proved impossible. Apportionment exploded as the dominant issue of the 1960s when federal courts intervened in the matter. The federally-mandated apportionment of 1965 broke the deadlock just as it broke the rural stranglehold on the legislature. Then the last two legislatures of the era (1967 and 1969) approved the restoration of annual sessions. If rural representation had not been reduced by reapportionment, it is unlikely that annual sessions would have followed.

The General Assembly and the Governors

The changes in the executive branch of state government in 1933 were wrought with the full cooperation of the 78th General Assembly. Collectively these changes, which made Paul V. McNutt the most powerful chief executive in Indiana during the twentieth century, permanently strengthened the office of governor. While no governor between 1937 and 1969 achieved McNutt's near dictatorial status, neither was any as subordinate to the legislature as McNutt's predecessors between 1866 and 1932 had been. While it remained true that all administrations until 1973 were lame ducks because no governor could succeed himself, and of course administrations were still dependent upon the legislature for appropriations, the vast increase in patronage power and the revenues derived by executive-controlled agencies dispensing licenses for such things as alcoholic beverages and automobiles made governors far more formidable than previously. With the office of governor thus strengthened, conflict between the legislative and executive branches became more likely. Such conflict was greatest when one

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[4] For the legislative history of these amendments, see Bremer, *Constitution Making in Indiana, passim.*

party controlled the legislature and the other controlled the governor's office. Even when the same party controlled both branches, however, executive-legislative differences were sometimes severe.

Four Democrats and four Republicans succeeded McNutt as governor during the era. (See Appendix A, Table 3.) With one of the Democrats (Henry F. Schricker) elected twice, and since the era ended midway through the term of one of the Republicans (Edgar D. Whitcomb), Democrats held the office for an additional twenty years, Republicans for only fourteen. The four Republicans—Ralph F. Gates (1945-1949), George N. Craig (1953-1957), Harold W. Handley (1957-1961), and Edgar D. Whitcomb (1969-1973)—enjoyed substantial partisan majorities in seven of the eight legislatures during their terms. (In 1959, Handley faced a Democratic House while Republicans kept the Senate.) Gates and Craig were like McNutt in a number of important respects. Both were former commanders of the American Legion, neither had legislative experience, and both tried to restructure state government to his own advantage just as McNutt had. They were unlike McNutt in that the two Republicans experienced heated fights with their general assemblies despite huge partisan majorities. Handley, who encountered less conflict with the legislature than any of the other seven, had served in the Senate prior to becoming governor.

The four Democrats—M. Clifford Townsend (1937-1941), Henry F. Schricker (1941-1945, 1949-1953), Matthew E. Welsh (1961-1965), and Roger D. Branigin (1965-1969)—confronted potentially hostile Republican majorities in at least one house during eight of the ten legislatures to convene during their terms. Townsend, in 1937, and Branigin, in 1965, were the only Democrats to enjoy legislative majorities. Schricker faced overwhelming Republican majorities during three of his four sessions. In 1941, with a Republican lieutenant governor and almost two-thirds Republican majorities in both houses, the state witnessed the most bitter conflict between a governor and his legislature since the Civil War. In 1949 Schricker's party controlled the House while Republicans retained the Senate. In the 1960s Governor Welsh was almost as unfortunate as Schricker had been regarding legislative majorities. Republicans controlled the House during both of Welsh's sessions; in 1961 Democrats held the Senate by a margin of only 26 to 24, while in 1963 the Republicans held a 25 to 24 advantage with one seat vacant. In addition, Welsh's lieutenant governor, Richard O. Ristine, was a Republican. Despite these adverse numbers, Welsh was surprisingly successful in getting his program through the legislature.

The first serious conflict with a governor broke out in 1939 when Republicans in a split legislature announced their intention to impeach Governor Townsend. The confrontation originated in 1937 when the General Assembly adjourned on January 29 for ten days because of the great Ohio River flood. The flood, the worst in Indiana's history, inundated the lower quarter of the state and refugees poured into Indianapolis. While lawmakers were absent the governor, in violation of the 1921 anti-nepotism law, appointed his son to a $250 a month job with the state Livestock Licensing Division. The governor's defense was the usual one in such cases: that Max A. Townsend should not be ineligible to serve the state just because his father had been elected to office. When the legislature reconvened

on February 8, Senator Jacob Weiss and six other Democrats introduced a bill to repeal the 1921 act. Weiss' bill became law and retroactively legalized the governor's appointment. Republican legislators protested, but could do nothing that session.[5] In 1939, with the Republicans having captured the House, Townsend was threatened with formal charges. In the Senate, William E. Jenner cosponsored a bill to prohibit relatives of elected officials from holding appointive offices. Jenner and Weiss nearly came to blows on the floor before the bill was tabled. The matter ended when the House impeachment resolution died in a Senate committee.[6] Townsend's nepotism damaged his effectiveness during the second half of his term. Following the strongest governor of the era, McNutt, and announcing his intention to simply maintain the structure he inherited, Townsend is judged less able than his predecessor and the weakest governor of the period.

The Republican party carried Indiana in 1940 with a platform that promised to dismantle the New Deal. Native son Wendell Willkie received the state's presidential electoral votes; Raymond E. Willis replaced Sherman Minton in the United States Senate; and eight out of twelve congressional districts elected Republicans. Likewise, the Republican state ticket from lieutenant governor on down was swept into office. For the first time since 1928, Republicans won both houses of the legislature with a 64 to 36 margin in the House and a 31 to 19 margin in the Senate. The Democratic party salvaged only one major office: Democratic Lieutenant Governor Henry F. Schricker defeated Republican Glen R. Hillis for governor by fewer than 4,000 votes.[7] Republicans considered Schricker's victory an electoral fluke that in no way detracted from their otherwise overwhelming mandate.

Republicans of the 82nd General Assembly were determined to accomplish for their party what the 78th General Assembly had accomplished for the Democrats. The suite of Republican state chairman Arch N. Bobbitt at the Claypool Hotel became a "bill factory" just as the Indianapolis Athletic Club had been for the Democrats in 1933. Former state Supreme Court Judge Fred Gause and former state Attorney General Arthur Gilliom served as principal draftsmen. "If there ever was a legislature that was run from the Claypool Hotel, this was one," said Bobbitt. Over at the State House, a "Steering Committee" composed of four members from each house with Bobbitt as chairman became a Republican-style "Inner Circle." The arrangement "was a little unorthodox because I wasn't a member of the legislature," Bobbitt recalled years later. But then Frank McHale had not been a member of the legislature in 1933 either. Other key members of the "Steering Committee" included Lieutenant Governor Charles M. Dawson, President *pro tempore* William E. Jenner, Speaker James M. Knapp, and House Majority Leader Frank T. Millis. Gause and Gilliom provided the bills; the

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[5] For details of the flood, see Indianapolis *Times*, January 26, 29, 1937; for the appointment and its repercussions, *ibid.*, February 10, 17, 1937; for the repeal of the anti-nepotism act, *Senate Journal*, 1937, pp. 328, 465, 667, 702-3, 1160, and *Laws*, 1937, p. 1067.

[6] Indianapolis *Times*, January 27, 1939; *Senate Journal*, 1939, pp. 101, 209, 223.

[7] James H. Madison, *Indiana Through Tradition and Change: A History of the Hoosier State and Its People, 1920-1945* (Indianapolis, 1982), 149-51.

"committee" steered them through the legislature. According to the Indianapolis *Times*, the Republican purpose was clear: destroy the patronage power of the governor by stripping him of executive powers.[8] The *Times* had it backwards. Patronage meant political power, true; but shunting the governor aside, in effect undoing his election, was the more significant aim because of its grievous constitutional implications.

The modus operandi was described by Bobbitt: "I had a private telephone line from my office . . . to [Speaker] Jim Knapp's office." He boasted further that "I had a book on every Republican member of the legislature and on some of the Democrats. I knew who had gotten them to run, who their close friend was, whether they owed any money at the bank, if so, to whom . . . ." By such methods, which had been used by the Democrats only eight years earlier, Bobbitt convinced majorities in both houses to pass bills drafted in his hotel suite. As Bobbitt remembered them, they fell into three categories: "Platform bills," four in number, which reorganized state government to put Republicans in control; "good bills that were good generally for the state"; and a "whole slew of pet bills." Millis remembered introducing an "armload" of bills, although neither he nor other legislators knew what was in them. Eighteen House bills and seven Senate bills were vetoed by Schricker; twenty-four of the bills were repassed over the governor's veto and became law.[9]

The four bills aimed at breaking the power of Governor Schricker were the most important. The first repealed the 1933 reorganization act and established a new system of executive administration by three-member boards. The governor would always be in the minority on these boards since two of the members would be Republicans. The second bill abolished the appointive office of state attorney general, which was held by a Democrat appointed by Schricker, and the third established a new office of attorney general, which would be filled by a Republican appointed by the new board. The fourth bill abolished the state Board of the Department of Education and created a new one that would be manned by different people. Schricker vetoed each of the four on grounds it infringed upon the governor's constitutionally-granted power to be chief executive. Each was then repassed on straight party line votes.[10]

As soon as the session ended, the governor and Attorney General George N. Beamer sued to enjoin Secretary of State James M. Tucker and others from acting or functioning under the acts. A temporary injunction in favor of the governor and the attorney general was granted by the Marion County Circuit Court in April. On June 26, the Indiana Supreme Court, in a 4 to 1 decision, declared all four acts unconstitutional and wholly void. The court decreed that the power to appoint affected officers and employees rested wherever it had been placed by constitutional enactments of the legislature. Failing such enact-

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[8] Indianapolis *Times*, January 6, 1941; Bobbitt oral history interview, 2nd ms., 23-29, quotations, 24-25, Indiana Division, Indiana State Library, Indianapolis.

[9] Bobbitt oral history interview, 2nd ms., 24-25, Indiana Division, ISL; Millis oral history interview, 2nd ms., 62-63, *ibid.* For a list of the vetoes, *Senate Journal*, 1941, p. 1306.

[10] *Laws*, 1941, pp. 31-48, 291-97, 552-54.

ments, the vacancies might be filled by the governor under section 18 of Article 5 of the state Constitution.[11]

In the most serious confrontation over appointment and patronage powers in the state's history, Governor Schricker defeated the Republican majority of the Indiana General Assembly. During the contest Schricker conducted himself with dignity and statesmanship. He was persistently calm, deliberative, at times almost stoical, and always gubernatorial. For its part, the General Assembly conducted its business in much the same fashion as its predecessor of 1933. In that year Democratic legislators bypassed the Legislative Reference Bureau with a "Bill Factory" because Bureau Director Charles Kettleborough was "unreliable." In 1941 Republican legislators bypassed the Reference Bureau with a suite at the Claypool Hotel because Bureau Director Herbert P. Kenney, Sr., was a Democrat. A majority of lawmakers at both sessions surrendered the initiative in lawmaking to outsiders. The Democrats of 1933 did this to guarantee their party and their governor absolute control of state government and patronage. The Republicans of 1941 did likewise to regain control of state government and patronage. The major difference, of course, was that the legislative actions of 1933 strengthened and enhanced a coequal branch of government; those of 1941 seemed just as surely intended to destroy a coequal branch.

There is evidence that the Republicans of 1941 were warned in advance that their actions were unconstitutional. Charles T. Miser of DeKalb County began an eighteen year career in the House at the session. He believed Republicans were doing the right thing because men he trusted who were expert lawyers said the acts were constitutional. According to Miser, when the Republican caucus considered the four "ripper bills," Representative Guy W. Dausman of Elkhart County complained:

> This is unconstitutional. I don't care what anybody says, our constitution says that the governor shall be the chief executive. You just can't make him a minority member on any kind of an appointees [*sic*] board and have it constitutional. There isn't a court in the country that will say that it is.[12]

Dausman, whom Miser described as a brilliant mind but an alcoholic, was drunk at the caucus and no one paid him any attention. Nonetheless, Republican state chairman Arch Bobbitt ultimately concluded that the attempt to destroy Schricker's power was indeed a bad thing. "After several years of sober thought," the chief architect of the scheme said that his ripper bills "would've destroyed our form of government entirely and we would've had a commission form of government instead of an executive representative." Only a beleaguered governor and the state Supreme Court combined to prevent the destruction intended by the 1941 legislature.[13]

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[11] *Tucker et al.* v. *State*, 218 Ind. 614-736.

[12] Miser oral history interview, 1st ms., 38-39, Indiana Division, ISL.

[13] Bobbitt oral history interview, 2nd ms., 27, *ibid.* For a detailed analysis of the conflict with Schricker, see Charles Francis Fleming, *The White Hat: Henry Frederick Schricker, A Political Biography* (n.p., 1966), 60-105. Fleming was a Democratic state senator in the 1940s, and secretary of state during Schricker's second term.

After the *Tucker* decision, relations between Governor Schricker and his general assemblies improved markedly. Bipartisan harmony prevailed in 1943 as the Democratic governor and the Republican legislature avoided confrontation in a spirit of wartime unity. In 1949, facing a Democratic House and a Republican Senate, Schricker distanced himself from the more liberal proposals in his party's 1948 platform. He thus avoided what could have been a legislative donnybrook. With Republicans in overwhelming control of both houses in 1951, the governor and the legislature confounded political prophets by working together in surprising harmony. For his part, the governor went on record as a "Jeffersonian Democrat" who opposed some of the New Deal. He also refused to take the patronage of the Bureau of Motor Vehicles away from an elected Republican secretary of state. This last action assured a more cooperative legislature since it took some 400 Democrats off the payroll. "Don't worry about Henry," said one anonymous Democrat, "he can take care of himself." "Yeah," said another, "but what about us."[14]

When Republican Governor Ralph F. Gates took office in 1945, he planned "a benign streamlining" of state government. With partisan majorities of better than two thirds in each house, Gates presented the legislature with an administrative reorganization bill that would give him the kind of supreme power McNutt enjoyed. The lawmakers, jealous of legislative prerogatives, let it be known immediately that any reorganization must originate with the legislature. They then scrapped Gates' proposal. Instead the session enacted a series of bills based ostensibly on the *Tucker* decision in which the Supreme Court ruled the governor possesses full appointive privileges over all divisions. As a result of these enactments, every important state division was reorganized to give the governor undisputed domination. He appointed the chairman of every board and committee, and the laws gave these chairmen "a double vote," enabling them to pack a decisive vote in case of a draw. "Legislators have been generally obedient . . . ," the Indianapolis *Times* noted near the session's end, "because [Gates] still has a horn-of-plenty full of jobs to offer."[15] Thus, Gates got essentially what he wanted as governor, but each "reform" originated with the General Assembly instead of gubernatorial advisors.

When George N. Craig won the governor's office in the Eisenhower landslide of 1952, the press predicted that the 1953 session would be a Republican replay of the 1933 session during which the General Assembly made McNutt all-powerful. Like McNutt, Craig was a former national commander of the American Legion who rose to high office through a political machine manned by Legionnaires. Craig's chief lieutenants included Elmer W. ("Little Doc") Sherwood and Charles ("Red") Minton. Both men were former state heads of the Legion, just as McNutt's chief advisors had been former Legion leaders Frank McHale and

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[14] For the 1949 session, "Schricker Faces Realities," Indianapolis *Star*, January 12, 1949; for the 1951 session, "Schricker and GOP Fool Political Prophets," Indianapolis *Times*, January 21, 1951.

[15] Indianapolis *Times*, February 28, 1945.

Bowman Elder. Both McNutt and Craig had seized their party's nomination after ousting state chairmen and other officials who supported rivals. Immediately after his election, Craig established a command post at the Antlers Hotel (the unofficial headquarters of the American Legion) similar to the headquarters McNutt had established at the Indianapolis Athletic Club. From there the governor-elect issued communiques on his plans for a "Model Government" in which department heads would serve as a "little cabinet" for the governor. With Republican majorities of 40 to 10 in the Senate and 81 to 19 in the House, Craig and his aides fully expected to implement their plans with a General Assembly as compliant as McNutt's. But Craig's reckoning did not take into account the power of the Republican leadership in the Senate.[16]

Senator Richard Hoyt Moore, Sr., of Indianapolis, a veteran legislator with ten years service, was Republican caucus chairman in 1953. According to Moore, Craig's reorganization plan originated while the governor-elect was vacationing during the week following the 1952 election:

> That was in November and Craig, Doc Sherwood, and another one or two of Craig's very close war buddies, took off for Florida. They began to formulate their program down there. They got it all developed and they were going to set up a cabinet type of state operation, where the governor is up here at the top, and then you came down and had certain state officials that were responsive to him; and then down below here he had a chart, and here were others responsible to these persons. You had a base down here, and it built up eventually so that all questions went up and were resolved by the governor.

Neither Moore nor other key leaders such as Lieutenant Governor Harold W. Handley and President *pro tempore* John Van Ness knew of the plan until Craig revealed it to them shortly after the Senate organized in December. All three belonged to the more conservative wing of the Republican party and had supported Robert A. Taft of Ohio for the presidential nomination in 1952. Craig and his Legionnaires, on the other hand, were from what would in time be called the moderate wing of the party which had supported Dwight D. Eisenhower. In addition, Van Ness had been Craig's chief rival for the gubernatorial nomination. Shortly after the session began, Craig called the three into his office and asked what they thought of his plan. Handley said, "Well, Governor, I'm sorry, I can't go with you on that." Van Ness and Moore made it clear that they too were opposed.[17]

Matters worsened for Craig as the session progressed. His people kept introducing bills that the Republican Senate leadership kept rejecting. While the reorganization bill was debated Van Ness gave "a stirring speech" against centralization, an event that one newspaper described as "the first time in recent political history that a legislative leader had personally attacked the Governor of his own party on the floor of the General Assembly . . . ." Things were

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[16] "Model Government" plan, Indianapolis *Star*, November 19, 1952; comparison with McNutt, Indianapolis *Times*, January 11, 1953.

[17] Moore oral history interview, 124-30, quotations, 125, 126-27, Indiana Division, ISL.

almost as bad for the governor in the House where Representative Robert S. Webb, a Republican from Hamilton County, denounced the "power grab" of Craig in arguing against the reorganization bill. Midway through the session, the Indianapolis *Times* attributed Craig's difficulties to four factors: first, "talking too much before becoming governor"; second, he was "unfortunate" in his choice of political associates; third, campaign promises had "come back to haunt him"; and finally, he did not take lawmakers into his confidence "until his program bogged down in the General Assembly."[18] After adjournment, columnist Irving Leibowitz drew upon the popularity of Herman Wouk's notable work, *The Caine Mutiny*, in christening the session "'the Craig Mutiny' because the rebellious Republican-controlled legislature tossed overboard the Governor's sweeping program to centralize state government." Caucus chairman Moore stated the obvious when he said that the Craig program failed because "the House and Senate . . . leadership . . . was not firmly behind the governor." As a result, most of the things proposed by the administration "didn't come into being."[19]

The session of 1953 proved that overwhelming majorities in both houses did not guarantee success for a governor's program. This was especially true if a governor's advisors alienated the leadership through arrogance and failure to consult with key lawmakers. Craig's chief associates considered the governor and themselves above the General Assembly. Indeed, the breach with the administration proved advantageous to the legislature when three of these associates, including administrative assistant Elmer W. Sherwood, subsequently went to prison. They were convicted of bribery and conspiracy for stealing millions of dollars in acquiring rights-of-way for the Indiana Toll Road. No legislator was implicated in the worst scandal involving state government since World War II. Although Governor Craig was not involved himself, the Toll Road scandal permanently damaged the reputation of his administration.[20]

There was a noticeable lack of executive-legislative conflict during the administration of Harold W. Handley, a conservative Republican philosophically compatible with the Republican majority in both houses at the 1957 session. When the legislature split between a Democratic House and a Republican Senate in 1959, most wrangling occurred between the two houses and did not involve the governor's office. As a result, the Handley administration enjoyed the least acrimonious relationship with the legislature during the era.

The parallels between the Indiana election results of 1940 and 1960 are striking. Republican presidential candidate Richard M. Nixon won the state's electoral votes by more than 222,000 ballots over John F. Kennedy. Republicans were victorious in seven of the state's eleven congressional districts. Except for Democrat William E. Wilson, who was reelected superintendent of public in-

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[18] Van Ness speech, Indianapolis *Times*, March 8, 1953; Webb quotation, *ibid.*, February 19, 1953; Craig's problems, *ibid.*, February 8, 1953.

[19] Leibowitz column, *ibid.*, March 12, 1953; Moore oral history interview, 128, Indiana Division, ISL.

[20] For Craig's retrospective view of the scandal, see his oral history interview, 2nd ms., 27-37, Indiana Division, ISL.

struction, the Republican ticket from lieutenant governor on down also captured all state elective offices. Republicans won the state House of Representatives by a 65 to 34 margin. Democrats had a narrow edge of 26 to 24 in the state Senate. Democrats also salvaged the major executive office when state Senator Matthew E. Welsh defeated Lieutenant Governor Crawford F. Parker for governor by just over 23,000 votes. As in 1941, Indiana Republicans seemed prepared in 1961 to cast Governor-elect Welsh in the role of the derogated Henry F. Schricker.

As a representative from Knox County in 1941, Welsh witnessed the legislature's assault on Governor Schricker first hand; from 1955 to 1959, he served in the Senate as minority leader. Doubtless because of this previous service, Welsh showed a greater grasp of the legislative process than any other governor during the era. Welsh also had a deep appreciation of the importance of legislative support in implementing a governor's program. He wrote that when he and his advisors decided in 1958 to go after the gubernatorial nomination, "We realized that we needed to build up to the nomination by first strengthening the legislature." To accomplish this the Welsh campaign issued a series of memoranda for Democratic legislative candidates that offered detailed statements about state issues, campaign techniques, and sample speeches and press releases. These "Memos from Matt" helped Democrats win the Indiana House in 1958 and the Indiana Senate in 1960. They also represented a more direct means of support to legislative candidates than any previous candidate for governor had ever given.[21]

Governor Welsh nonetheless beat the odds with the 92nd General Assembly because he was astute enough as a politician to overcome the adverse arithmetic. "The problem," Welsh stated in his memoirs, "was to draft language for the bills and then muster support in a manner that would not label the measures as partisan . . . ." Welsh gave credit, also, to Republican Lieutenant Governor Richard O. Ristine, presiding in the Senate, and Speaker Richard W. Guthrie: they were "experienced and well-informed legislators" who "encouraged a cooperative approach."[22] With such enlightened cooperation from Republican leaders, a number of significant measures were adopted with remarkably little controversy. At the Democrats' Jefferson-Jackson Day dinner a few days after the session ended, the governor had nothing but praise for his first General Assembly. He specified tax reforms and civil rights legislation as chief among twelve areas of "major improvements" made by the 1961 legislature. Other notable advances were laws that reorganized the state Department of Highways and created a state Department of Administration, laws that provided medical care for the aged and aid for the permanently disabled, and laws that provided funds for the Indiana port and Monroe Reservoir.[23]

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[21] Matthew E. Welsh, *View from the State House: Recollections and Reflections, 1961-1965* (Indianapolis, 1981), 14. Welsh's memos did not give him the majorities he needed in 1961 to ease his way as governor. Republicans controlled the House after an election where the Catholicism of the Democrats' presidential candidate was a decisive factor for many Indiana voters.

[22] *Ibid.*, 80.

[23] Indianapolis *Times*, March 18, 1961.

Although Welsh had less success in 1963 when Republicans controlled both houses, he nonetheless grappled successfully with a state financial crisis. Professors York Willbern and Karl O'Lessker of Indiana University, in examining Welsh's work with both sessions, stated: "Governor Welsh's greatest achievement may have been his success in working constructively with the opposition-dominated legislature."[24] This achievement made Welsh one of the abler governors of the post-McNutt era and the most successful in a period of divided government during the twentieth century.

In 1964 Lyndon B. Johnson became the first Democratic presidential candidate to carry Indiana since Franklin D. Roosevelt in 1936. Conservative Republicans who had dominated the General Assembly since World War II were driven from office in what came to be known as "the Goldwater debacle." As a result, Democrats controlled the legislature for the first time in twenty-eight years at the 1965 session (35 to 15 in the Senate; 78 to 22 in the House). Democrat Roger D. Branigin captured the governor's office in the same anti-Goldwater tide and the state appeared poised to implement the first absolutely liberal legislative program since the days of McNutt. But it was not to be; Governor Branigin was a fiscal conservative determined to stop "waste" in government through rigorous control of spending.

In 1965 Branigin vetoed several distinctly liberal reform measures and many other bills he considered fiscally irresponsible. The casualties included one bill that would have abolished capital punishment and another that would have prohibited the employment of professional strikebreakers in labor disputes. Bills vetoed on fiscal grounds included one that would have increased the firemen's pension fund benefits and another that would have established a Division of Medical Care and Treatment in the state Department of Corrections. In all, fifty-four measures were vetoed by Branigin, "the most [vetoes] ever used by a governor in a single legislative session." In 1967, when Republicans again won the House, Branigin vetoed forty-six more bills. Administration spokesmen told the Indianapolis *News* that "money was one of the main reasons for some of the vetoes this year—money not available." At least one of Branigin's vetoes in 1967, however, had nothing to do with money. Harriette B. Conn, a black and a Republican representative from Indianapolis, sponsored a bill that would legalize abortions performed by licensed physicians. Conn's bill passed the House 62 to 13 and the Senate 28 to 17, but Branigin, believing that the performance of an abortion by a physician was and should remain a crime, vetoed the measure. The governor's vetoes were almost always cast without rancor. But with or without rancor, regarding legislative-executive relations, Branigin was remembered primarily as the governor who "brought into focus the powerful relationship of the executive to that part of our traditional system of 'checks and balances.'"[25]

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[24] Welsh, *View from the State House*, Introduction, xxi.

[25] For the 1965 vetoes and quotations, "Gov. Branigin Set New Veto Record," Indianapolis *Times*, March 28, 1965; for the 1967 quotation, "Branigin Vetoes 46 Bills," Indianapolis *News*, March 13, 1967; for the abortion bill, *House Journal*, 1967, pp. 580-81, 1978, and *Senate Journal*, 1967, p. 1080.

The last biennial session of the Indiana General Assembly convened in 1969 as Edgar D. Whitcomb, the last governor limited by the Constitution to a single four-year term in eight years, took office. Republicans held both houses by better than two-thirds majorities (73 to 27 in the House; 35 to 15 in the Senate). Most of these Republican lawmakers had entered politics after the reapportionment of 1965, which had gutted the strength of the conservative old guard in the Grand Old Party. The newer Republicans were both less conservative and more urban-oriented than their partisan predecessors had been. On the other hand, Whitcomb belonged to the party's old guard. While serving in the Senate in the early 1950s, he was noted for fiscal conservatism and his opposition to almost all social legislation of a liberal nature. Partly for ideological reasons and partly for his administrative style, during the 96th General Assembly Whitcomb found himself at odds with a majority of his own party in both houses.

The result was stalemate, especially on the degree and the means by which state government should be financed. Edward Ziegner, political editor of the Indianapolis *News*, noted two weeks before adjournment that the session "skidded toward its scheduled finale" with the executive and legislative branches hopelessly divided on "vexing fiscal problems." Ziegner predicted that because of the division the session would see "the highest mortality rate in history for introduced legislation" with less than 25 per cent of the bills and resolutions finally clearing both houses.[26] Ziegner proved to be right; the session was one of the least productive of the era in terms of the number of bills that became law.

Government Reorganization

Between 1931 and 1969 governmental reorganization and legislative-executive relations were closely related questions. Both were intertwined with some fundamental issues of constitutional reform and the continuous failure of the General Assembly to reapportion. Until the mid-1960s, study groups and commissions in abundance examined and proposed structural reforms. During the same years successive general assemblies considered and usually failed to approve constitutional amendments that would implement such reforms and open the way to greater efficiency and economy in government. Then, in 1965, came court-ordered reapportionment. Reapportionment was followed by a burst of laws and constitutional amendments at the 1967 and 1969 sessions that forever changed the executive, legislative, and judicial branches.

The steady growth and expansion of executive-administrative agencies received recurring attention. Such concern, originating with McNutt's reorganization in 1933, provided a constant source of pulling and tugging between the legislature and executive agencies. McNutt's program, the source of great hostility at the time, came to be regarded as extremely beneficial in terms of economy and efficiency. Many Republicans in the legislature, however, interpreted McNutt's reform as largely a "power grab" by the executive. When their party regained

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[26] Indianapolis *News*, February 24, 1969.

control of the General Assembly during Schricker's first term in office they moved to strip the governor of all appointive and patronage power. After the Indiana Supreme Court overturned this legislative "power grab," the Republican legislature of 1945 beat down the executive-initiated reorganization of Governor Gates. In the meantime, Indiana government continued to grow and become more costly amidst repeated demands that it be streamlined to make it both less expensive and more responsive.

The legislature of 1951 addressed the problem by establishing the Commission on Organization of the Executive and Administrative Branches of the State Government. The bill, sponsored by Representative Paul C. Moellering of Fort Wayne, passed the House 86 to 6, the Senate 33 to 11. Ten members (two appointed by the governor and four each by the president *pro tempore* and the speaker) were empowered to hold hearings and make recommendations to the 1953 session. All state agencies were directed to cooperate with the commissioners and provide them with data. Moellering was named chairman. Under his direction, Indiana's "Little Hoover Commission" (so called because it was patterned after the federal commission headed by former President Herbert Hoover in 1949) became one of the most popular and well-publicized study commissions of the era.[27]

Moellering's group delved into the activities of state government and issued the most comprehensive report on governmental reorganization in two decades. At the 1953 session, however, the commission's recommendations ran afoul of the opposition engendered by Governor Craig's proposed restructuring of government. With lawmakers unable to distinguish between "Little Hoover" proposals and Craig's "power grab," the legislature, in the words of an Indianapolis *Star* columnist, "again has demonstrated its reluctance to accept advice from study commissions authorized by the previous session." Among recommendations rejected by lawmakers were proposals to consolidate the administration of numerous professional and craft licensing boards in one department and to reform the method of buying insurance for state properties. The commission, listing the publications of more than sixty state departments with a total printing bill of over $600,000, suggested the cost could be cut in half if all departments had to get approval from the budget committee for such expenditures. This recommendation also failed. In fact, the only recommendations approved by the legislature concerned construction of a new state office building and an act replacing the state Highway Commission with a new state Highway Department. Otherwise, the 1953 legislature rejected any program to reorganize state government, including a proposal to extend the life of the "Little Hoover Commission" through 1955.[28]

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[27] *House Journal*, 1951, pp. 52, 737; *Senate Journal*, 1951, p. 743; *Laws*, 1951, pp. 1087-91.

[28] Maurice Early, "Little Hoover Board Findings 'Ignored,'" Indianapolis *Star*, February 26, 1953. For the office building act, *House Journal*, 1953, pp. 769, 1030, and *Laws*, 1953, pp. 803-12; for the Highway Department, *ibid.*, 816-23; for the indefinite postponement of the commission extension, *Senate Journal*, 1953, pp. 735-37.

The failure of the legislature to implement reorganization in the 1950s meant that Indiana government continued to grow in an unabated and uncoordinated fashion. Some changes did occur in 1961 when the legislature under Governor Welsh created a Department of Administration, reorganized the state Highway Department, and gave birth to the Indiana Port Commission. After this success, Welsh appointed a bipartisan Governor's Committee on Administration in 1962 to make one more comprehensive study. Welsh's committee, composed of thirteen prominent businessmen, found state government "archaic, inefficient and basically unworkable." Specifically, the committee cited "too many departments, commissions, committees, and other groups" reporting to the governor. According to Welsh's committee, state government suffered from a lack of accounting control and inventory control, from the lack of a building maintenance program and publishing control, and from duplication of facilities and services. Furthermore, state insurance practices were "all over the board, over-insured in some instance[s], not insured at all in others."[29] At the 1963 session administrative efficiency paled beside the issues of reapportionment and the state sales tax, and action on reorganization was postponed until the end of the decade.

Senator Nelson G. Grills, a Democrat from Indianapolis, pushed the "Reorganization Act of 1967" through a divided General Assembly in which Republicans controlled the House 66 to 34 and Democrats controlled the Senate 28 to 22. Grills accomplished this at the first legislature reapportioned to represent rural and urban citizens in line with the United States Supreme Court's 1963 "one man, one vote" ruling. The bill got through the Republican-controlled House because Majority Leader William D. Ruckelshaus of Indianapolis and Minority Leader Richard C. Bodine of Mishawaka were enthusiastic cosponsors. Grills' bill, which led to important changes in state government, authorized Governor Branigin to create a special commission to examine the executive branch and forward recommendations to the 1969 General Assembly.[30] Branigin named Philip C. Sorensen chairman of the commission. Sorensen, the brother of John F. Kennedy's speech writer, Theodore Sorensen, was a former lieutenant governor of Nebraska and in 1967 was executive director of the Irwin-Miller-Sweeney Foundation at Columbus. Former Indiana Lieutenant Governor Richard O. Ristine, whom Branigin defeated for governor in 1964, was named vice-chairman. The study was directed by Indiana University Professor York Willbern.[31]

The Sorensen Commission's effort coincided with the publication of a series of reports on "Modernizing State Government" issued by the Committee for Economic Development (CED). This privately funded, national group of 200 educators and businessmen was formed in 1943 by Paul G. Hoffman, president of the Studebaker Corporation. Hoffman's original intent was to have the CED help American business prepare for the transition from a wartime to a peacetime

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[29] Indianapolis *Times*, December 6, 1962.

[30] *Senate Journal*, 1967, pp. 263, 594; *Laws*, 1967, pp. 8-13.

[31] For the commission's findings, see *Executive Reorganization in Indiana: Report of the Commission for the Reorganization of the Executive Branch of Indiana State Government* (Indianapolis, 1968).

economy after World War II. By the 1960s, the CED concentrated on studying problems in state government. In September, 1967, one month after the Sorensen Commission was formed, detailed CED critiques of the Indiana Constitution, the governor's office, the state legislature, and the state judiciary were issued. Collectively, these CED reports constituted one of the most exhaustive analyses of Indiana government in the state's history and served to second the extensive changes in the executive branch of government urged by the Sorensen Commission report in October, 1968. The CED reports also opened the way for some constitutional amendments that changed the legislative and judicial branches when they passed the General Assembly in the late 1960s.[32]

The changes in the executive branch consolidated eighty-seven agencies into eleven major departments, including a new Department of Transportation. This was a major recommendation of the Sorensen Commission. Changes recommended by the CED that passed as constitutional amendments included one approved by the voters in 1972 allowing governors to serve consecutive four-year terms and another approved in 1974 mandating the lieutenant governor and governor to run as a team.[33] These changes meant that future governors and lieutenant governors would no longer be lame ducks headed for potential political oblivion the moment they won election. The changes also meant that future governors would not confront the situation faced by Henry Schricker and Matthew Welsh, each of whom served with a lieutenant governor of the opposite party.

The changes in the legislative branch that grew partially out of CED recommendations included an act in 1967 that replaced the old Legislative Reference Bureau with a new Legislative Services Agency.[34] Changes in the legislative branch also included a constitutional amendment that addressed the century-old questions of whether to increase the number of session days and revert to annual sessions. Sixteen separate amendments on these issues had been introduced and rejected between 1941 and 1957.[35] The 1967 and 1969 sessions passed an amendment that stipulated "the length and frequency of the sessions of the General Assembly shall be fixed by law." After the voters approved this amendment in 1970, the legislature returned to annual sessions beginning in 1971.[36] The 1967 and 1969 sessions also revised Article 7 (the Judiciary) of the 1851 Constitution by striking out sections 1 through 20 and substituting a new article which voters approved on November 3, 1970. The amendment eliminated judges from politics by providing for the selection and appointment of judges by the governor upon recommendation of a judicial nominating commission. Terms for judges were ten

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[32] For the CED reports, see "Government Reorganization," Indianapolis *News*, September 4, 1967 (state Constitution), September 5 (executive branch), September 6 (legislative branch), and September 7 (judicial branch).

[33] *Laws*, 1969, p. 1834; *ibid.*, 1973, pp. 2004-5.

[34] *Laws*, 1967, pp. 93-99. For the provisions of the act, and the operation of the new agency, see below, pp. 534-35, 613-14.

[35] Bremer, *Constitution Making in Indiana*, 104-5, 129-30, 139-40, 148-49, 173-74, 176-78, 230-31, 245-46, 251-53, 254-55, 279.

[36] *Laws*, 1969, pp. 1829-30.

years, with provision for continuation if approved by referendum vote of the people. The amendment also spelled out procedures for discipline and removal of judges, for rule making, and eliminated justice of the peace courts as elected constitutional offices.[37] As a result of the changes initiated in the late 1960s, state government entered a new era in the 1970s. Henceforth, governors and lieutenant governors would be elected as a team and could serve eight consecutive years; the General Assembly would convene annually; and the state court system, insofar as possible, was removed from politics.

Nonapportionment, 1931 to 1961

The periodic redrawing of state senatorial and representative districts was far and away the most complex and politically volatile issue in the history of the General Assembly. The thirty-five legislatures under the first Constitution frequently bogged down in the politics of the question and stretched credibility to the breaking point with the shapes of the districts they created. But they never failed to reapportion every five years as directed by the document of 1816. By contrast, the sixty general assemblies that convened between 1851 and 1969 rarely apportioned every six years as the second Constitution mandated them to do. Only thirteen apportionments were enacted between 1857 and 1921; five of these were invalidated by the state Supreme Court. In the five cases the high court affirmed at least three basic judicial criteria regarding apportionments: one, apportionments should secure to each voter, as nearly as possible, an equal voice with every other voter in the state in the selection of senators and representatives; two, the duty of the legislature to reapportion every six years was mandatory and not discretionary; and three, courts could pass upon the validity of apportionment acts in the same manner they pass upon the validity of all other legislative actions because questions regarding the validity of apportionments were judicial and not political questions.[38] Despite the Constitution and these state Supreme Court decisions, Indiana legislators were elected from 1922 through 1962 under the Apportionment Acts of 1921 because the General Assembly never acted on reapportionment.

Legislators convened in sixteen regular sessions and six special sessions between 1931 and 1961. Republicans controlled both houses at eight sessions during these years, Democrats at three sessions, and at five sessions control was split between the two parties. At each of these sessions the legislature consistently failed to act on apportionment as mandated by the state Constitution. Such persistent nonfeasance, which struck at the heart of representative government,

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[37] *Ibid.*, 1846-53.

[38] The thirteen apportionments were passed in 1857, 1867, 1872, 1879, 1885, 1891, 1893, 1895, 1897, 1903, 1905, 1915, and 1921; the acts of 1879, 1891, 1893, 1895, and 1903 were declared unconstitutional. See above, pp. 212-16, 341-45. For a concise summary of judicial decisions involving Indiana apportionments from 1851 to 1965, see Robert B. McKay, *Reapportionment: The Law and Politics of Equal Representation* (New York, 1965), Appendix: State Summaries, Indiana, 319-23.

constituted the most glaring and long-lived failure in Indiana legislative history. With no issue receiving more frequent attention in newspapers all over the state than the biennial failure to reapportion, and with hardly a session innocent of a reapportionment resolution introduced in at least one house, no lawmaker could plead ignorance as an excuse for the failure to act. In reality, a majority of *both* parties at almost *every* session made a conscious, deliberate choice *not* to reapportion.

When Paul McNutt pushed his entire program through a solidly Democratic legislature in 1933, the Indianapolis *Star* learned "informally that the reapportionment bill is not an administration measure." The newspaper predicted that, although it had been twelve years since the last redistricting, none would occur in 1933 because the rural counties were opposed.[39] Between 1935 and 1957, in spite of the opposition of rural counties that dominated the legislature, at least twenty proposals to reapportion legislative seats were introduced. Until after World War II most proposals would have amended the Constitution by substituting the number of votes cast in each county for secretary of state in the last election previous to the apportionment for the sextennial enumeration of male voters over age twenty-one. In 1937, a resolution to this effect passed the House 67 to 8 and the Senate 40 to 0 due to the temporarily quiescent rural opposition. But the amendment died in the House at the 1939 session when rural opposition awakened.[40] When the House rejected the amendment in 1939, Democrat Winfield K. Denton of Evansville pleaded that "We don't want to have a 'rotten borough' system such as became a national scandal in England more than a century ago." Denton spoke for the state's urban residents, but Majority Leader Herbert H. Evans of New Castle spoke for those who controlled a majority of House votes: if redistricting occurred, said Evans, "four or five cities in the State would control this legislature."[41]

Majorities from rural districts continued to thwart urban attempts to reapportion throughout the 1940s and 1950s. At the 1941 session Senator Robert L. Brokenburr of Indianapolis wanted reapportionment every ten years based upon the federal decennial census. Under Brokenburr's proposal, if the General Assembly failed to act, an apportionment commission consisting of the governor, lieutenant governor, and speaker of the House would redraw the political map. Brokenburr's resolution was referred to committee with no further action taken.[42] In 1949, columnist Irving Leibowitz characterized one proposal to reduce the Senate to forty-six members (one for every two counties) and the House to ninety-two members (one per county) as evidence that "Both Democrat and Republican Senators from the farm areas are getting ready to wage 'all-out war'

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[39] Indianapolis *Star*, January 30, 1933.

[40] *Laws*, 1937, pp. 1395-96; *House Journal*, 1939, pp. 364-65; Bremer, *Constitution Making in Indiana*, 70-72, 86-87, 89. For similar resolutions that failed in 1933, 1941, 1943 (first special session), and 1945, see *ibid.*, 11-12, 105, 130, 134-35.

[41] Indianapolis *Times*, February 20, 1939.

[42] Bremer, *Constitution Making in Indiana*, 122-23; *Senate Journal*, 1941, p. 628.

on the heavily-populated industrial sections."[43] The general assemblies of 1949, 1953, and 1957 rejected other proposals either to reapportion every six years or to amend the Constitution so as to reapportion every ten years following the federal census. The 1957 proposal stipulated that no session would be legally constituted unless its seats were reapportioned according to the sextennial enumeration mandated by the Constitution.[44]

The failure of the counties to make enumerations was an important reason for the lack of legislative action. In 1951 the redistribution of seats was "destined to be held up for a while longer," said the Indianapolis *News*, because ten of the ninety-two counties failed to take a census in 1949. "[M]any . . . stopped taking a census after 1933," the paper added. Some counties failed to act despite the fact that the Indiana Constitution directed that an enumeration of male citizens must be taken every six years, and a statute of 1865 stipulated that the actual work of counting would be done by township trustees or their assistants. If the trustees failed to perform the enumeration, they were subject to a fine of up to $500 and a possible thirty day jail sentence.[45] As the *News* noted, no criminal action was ever brought against trustees who overlooked this duty. The paper concluded that the matter of reapportionment was "a perennial 'hot potato'" because it was unpopular with rural legislators who dominated the General Assembly.[46]

Maurice Early, state government correspondent for the Indianapolis *Star*, proclaimed in 1953 that "One of these days cities of Indiana will have to awaken to the fact that they are short changed by their representation in the Legislature." Early was angry because for over thirty years rural members of the General Assembly had ignored the basic law of the land and said "no" to giving the cities their just representation in both houses. This constant thwarting of the Constitution was justified by rural legislators, according to Early, on grounds that the cities were "not capable of sending legislators" to Indianapolis "who are able to pass laws." Also, a just reapportionment might mean that labor unions in the cities "would push 'too liberal' legislation if in control." Early concluded that the situation could not continue: "Something will have to give soon."[47] It took another decade, however, before reapportionment was accomplished. Two Democrats, seemingly crying in the wilderness between 1955 and 1961, helped force a reluctant legislature to act.

Jean R. LaGrange, a well-known newscaster in northwestern Indiana, parlayed a sonorous voice and a talent for popular issues into two terms as a La

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[43] Indianapolis *Times*, January 14, 1949.

[44] *Senate Journal*, 1957, p. 157.

[45] Indianapolis *News*, January 8, 1951; *Laws*, 1865 (s.s.), 41-47. An amendment to this act in 1877 directed the trustees to enumerate "colored males" also and list them separately from white males. *Ibid.*, 1877, pp. 59-61. After adoption of the Nineteenth Amendment (women's suffrage) in 1920, "male inhabitants" was dropped for purposes of voting in Indiana, yet remained the standard for purposes of enumeration for apportionment.

[46] Indianapolis *News*, January 8, 1951.

[47] Indianapolis *Star*, November 19, 1953.

Porte County representative. He made reapportionment his priority at the 1955 session by introducing three bills to force the issue. One of LaGrange's bills directed county officials to carry out in 1956 the census mandated by the Constitution and the statutes. Township trustees would be subject to six months in jail and the loss of a month's pay if they failed to conduct the enumeration. LaGrange's second bill required the counties to pay for the census. The third directed the 1957 General Assembly to reapportion on the basis of the census. LaGrange, arguing eloquently and long for his proposals, asserted that the failure to reapportion made all laws passed in the last thirty-five years unconstitutional. He also showed that if the legislature acted Marion County would pick up five additional seats in the House and two in the Senate. Rural legislators coming to the same conclusion voted 61 to 28 against LaGrange's attempt to pry his bills out of committee; more surprising, eight out of nine Marion County representatives voted with the majority.[48]

Although LaGrange's crusade for reapportionment failed to budge a recalcitrant legislature, it dramatized the issue as never before. During the next four years big city newspapers bristled with editorials demanding that the legislature follow the command of the Indiana Constitution. Statistics were cited to prove that some smaller counties had four to eight times as much representation as they should. About two thirds of the people of Indiana lived in counties containing cities of more than 50,000 population, yet these counties elected only about one third of the General Assembly. The residents of these cities favored Daylight Saving Time by a ten to one margin but rural legislators saddled them with Central Standard Time. Most important of all, urban residents paid almost 85 per cent of the taxes raised by the state, yet had less than half of the influence and representation they deserved.[49] To LaGrange and others, thirty years of nonapportionment was no longer tolerable. The press followed the lead of this newspaperman-turned-broadcaster in agitating for reapportionment and in 1959 the General Assembly witnessed the most spectacular one-man show by a nonleader since the Civil War.

It might be said that Senator Nelson G. Grills made a career of being a maverick. He first gained notoriety as a lieutenant commander in the United States Navy's Lighter Than Air Division during World War II. In July, 1943, as skipper of the only blimp in naval history to attack an enemy submarine, Grills was shot down by Germans off the coast of Florida and spent nineteen hours in the water before being rescued. Since blimps were not supposed to attack submarines, the Navy spent years trying to decide whether to give Grills a court-martial or a medal. In 1961, it finally decided on the latter, the Distinguished Flying Cross.[50]

After the war, Grills moved from Hammond to Indianapolis and became active in the Democratic party. Beginning as a precinct vice-committeeman, be-

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[48] Indianapolis *Times*, February 1, 24, 1955.

[49] For two typical editorials, see "Reapportionment—30 Years Past Due" and "The Tail That Wags the Dog in Indiana," *ibid.*, January 16, March 11, 1957.

[50] Indianapolis *Star*, February 19, 1961; Indianapolis *Times*, March 24, 1961.

tween 1952 and 1956 he served as Marion County and eleventh district Democratic chairman. He also served as minority attorney in the state House of Representatives in 1953. In 1958 Grills was elected to the first of two terms in the state Senate. During his years in politics, according to an Indianapolis journalist, he "managed to make just about everyone mad at least once. He admits this has not been easy to do."[51] Many thought that, for him, it had been. In his first term as senator, Grills proved that one man could indeed make a difference in the General Assembly. In the process of adding the word "grillibuster" to the lexicon of the General Assembly, Grills alienated almost every colleague on both sides of the aisle, the state leadership, and a governor of his own party over the reapportionment issue.

Grills began his fight for equal representation in 1959 by introducing a bill for enumeration leading to reapportionment. But the rural-dominated reapportionment committee refused to meet, let alone approve the bill.[52] In retaliation, on February 20 Grills invoked the long-ignored provision of the state Constitution that every bill be read aloud, word for word. Thus was born the "grillibuster," a nine-day period during which the Indiana Senate ground to a halt. On the first day a drone of voices—four clerks reading portions of each bill simultaneously—transformed the chamber into a modern Tower of Babel. Grills said he would demand a full airing of every bill until the apportionment committee released his measure. Committee chairman Willis K. Batchelet of Angola refused to budge, stating that if Grills succeeded he would "set a precedent that would light a fire and burn the Statehouse down." While Grills did not have arson in mind, he did intend an inflammatory battle of words to wear down his colleagues. On February 22, with as many as eighteen senators reading aloud their own bills, a steady attack was loosed on Grills from both sides of the aisle. Outside the Senate, Grills received support. "That Stubborn Mr. Grills" was praised in an editorial by the Indianapolis *Times*: "If the Indiana General Assembly won't [obey the Constitution] then who will?" On February 28 Grills bowed to pressure from his fellow Democrats and ended his "grillibuster." He vowed to continue his fight for the next two years, however, and predicted that the 1961 legislature would abide by the long-ignored reapportionment requirement.[53]

A few days before the 1959 session adjourned a private citizen, Arthur J. Schneider, sought a restraining order from the Marion County Circuit Court to keep legislators from receiving their pay on the ground that they were meeting illegally. Schneider's attorney argued that "Each member of the legislature since 1927 has violated his or her sworn oath of office in failing to carry [out] reapportionment." The suit intended to force a special session to bring about reapportionment by 1961 along the lines of Senator Grills' bottled-up bill. Judge John L. Niblack refused to grant the restraining order, however, "because this

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[51] Indianapolis *Star*, November 8, 1978.

[52] *Senate Journal*, 1959, p. 212.

[53] Indianapolis *Times*, February 21, 23, 26, 28, 1959; Indianapolis *Star*, March 1, 1959.

is a big question, it covers the whole state."[54] The following June, Senator Grills filed his own suit in the Marion County Superior Court of Judge John Linder to have the legislature declared unconstitutionally organized. The suit sought to void the election of Grills and twenty-two other state senators in 1958 because the legislature had not reapportioned itself since 1921. On December 2, 1960, Attorney General Edwin K. Steers went to the Indiana Supreme Court to block Grills' suit. "There is no right in anyone to invoke the jurisdiction of the judicial branch . . . to dissolve the state government," argued the attorney general's office in asking the high court to prohibit Judge Linder of the Superior Court from deciding the suit. Grills asked the court not to act and suggested "the attorney general . . . devote more of his time to helping people obey the Constitution instead of avoiding it . . . ." The state of Indiana and 149 lawmakers preparing to serve at the 1961 session were worried with good cause because, as Judge Linder stated after handing down his decision, "It has reached the point where a minority of the people have majority control of the legislature." The Supreme Court refused to intervene and, as the 1961 session opened, 149 pensive lawmakers and one maverick awaited Linder's verdict.[55]

The extent of concern became manifest just four days before the case was scheduled for trial. On February 23, while Senator Grills was absent arguing a case for a client in court, the Democratic-controlled Senate threw two "blockbusters" at the lawsuit. First, the elections committee delivered a report declaring all fifty senators to be holding office legally, their credentials and qualifications having been examined. The effect was to make an official entry in the *Senate Journal* attesting the right of every senator to hold office. The report was adopted unanimously and, since courts rarely went behind the legislative journals, Senate attorneys explained that when Grills' suit came up he would be confronted by the official record to confound his claim.[56] The Senate also passed unanimously, under suspension of the rules, a House bill providing that legislators did not have to appear in court until thirty days after the end of the General Assembly.[57] Thus protected, neither house acted on reapportionment. Of the eight redistricting measures submitted in 1961, none came close to passing.

Judge Linder waited until after the session adjourned. Then, on March 17, he issued a blockbuster of his own which produced "a legal explosion whose shock waves were recorded on Page One from Maine to California." Effective immediately, said Linder, the Indiana General Assembly was an illegal body. Its failure to reapportion for forty years constituted "a violation of the members' sacred oath of office, and strikes down the Legislature of the State of Indiana . . . ." The Indianapolis *Times* said that the decision meant the legislature, until it reapportioned, was "null, void, pffft." Governor Matthew E. Welsh and Attorney General Edwin K. Steers agreed. A special session which Welsh planned

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[54] Indianapolis *Times*, March 3, 1959.

[55] *Ibid.*, deputy attorney general's and Grills' quotations, December 2, 1960, Linder quotation, March 24, 1961.

[56] *Senate Journal*, 1961, pp. 659-60; Indianapolis *Times*, February 24, 1961.

[57] *Senate Journal*, 1961, pp. 665-66; *House Journal*, 1961, pp. 158-59; *Laws*, 1961, p. 132.

to convene on March 30 was cancelled because, in the opinion of Steers, Linder's decision barred any special or regular session until reapportionment was accomplished. Steers further recommended that the twenty-three senators who were defendants in the case not appeal: "If you appeal and lose, the General Assembly is no more and we will have a constitutional convention or no government at all in a short time." Steers also said a special session of the legislature might not be able to reapportion because "if the Superior Court is right, you could not act to take that legislative action."[58] After forty years of persistent non-apportionment, the Indiana General Assembly had reached an impasse.

Reapportionment, 1963 to 1972

The rural-dominated legislatures between 1927 and 1961 refused to act on reapportionment. By 1963, however, action appeared mandatory if the General Assembly were to escape the oblivion suggested by the 1961 Marion County Superior Court decision. Although Grills was not a member at the session, the reapportionment act of that year was a monument to him and his cause just as surely as if he had authored the measure and steered it through to final passage. Instead of ending a decades-long controversy, however, the circumstances surrounding passage of the act confused the question further. In 1965, following several adverse federal court decisions, the Indiana General Assembly faced the greatest of what seemed an unending series of apportionment crises. There were additional enactments between 1965 and 1971, interspersed with a series of conflicting federal court decisions, before the crisis was resolved. Only in 1972, after a successful appeal to the United States Supreme Court, did the General Assembly enact an apportionment law that withstood all constitutional challenges.

The federal judiciary became involved in Indiana's apportionment crisis on August 2, 1961, when a class action complaint (*Stout et al.* v. *Hendricks, Secretary of State*) was filed in the United States District Court for the Southern District of Indiana. Briefly, this complaint stated that, by reason of population shifts and the passage of time, the 1921 apportionment acts had resulted in under-representation of voters living in certain counties. Thus, the acts violated both the state and federal constitutions. On August 14, 1961, at the request of the United States District Court for the Southern District of Indiana, a three judge panel (hereafter designated as the court of appeals) was appointed by the chief justice of the United States Court of Appeals for the Seventh Circuit to hear the case. In August, 1962, Nelson Grills filed an action (*Grills* v. *Welsh, Governor, et al.*) in the court of appeals based upon his Marion County Superior Court judgment declaring the 1921 apportionment unconstitutional and denying the *de facto* authority of the General Assembly. On November 27, 1962, three weeks after the general election, the court of appeals consolidated all actions before it regarding apportionment of the Indiana legislature. After that date, all motions, pleadings, and briefs by any of the parties, and all entries, rulings, and opinions

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[58] For Linder's decision and Steers' opinion, Indianapolis *Times*, March 17, 18, 24, 1961, and Indianapolis *News*, March 17, 1961.

were to be considered as continuing developments of the consolidated action.[59]

In light of the Marion County Superior Court judgment and the intervention of the United States Court of Appeals for the Seventh Circuit, both political parties promised in their 1962 platforms to reapportion the legislature. Democrats pledged to do so on the basis of the 1960 federal census; Republicans promised to apportion the House on the basis of population and the Senate on the basis of districts. In November, 1962, Republicans won the House by a 56 to 44 margin. They also held a 25 to 24 margin in the Senate with one seat vacant. Thus, Republicans organized both houses and passed a Republican reapportionment bill on the last day of the regular session of 1963.[60] (See Appendix B, Maps 45-46.) The session then adjourned without having passed a biennial appropriation. Democratic Governor Welsh, in the face of a financial crisis, immediately convened a special session. Five days later, styling the apportionment act "a Republican gerrymander," Welsh vetoed it, and during the special session the Senate failed to repass the bill over the veto. Several new apportionment bills were introduced, but a standoff developed when House Republicans from less populous counties led a successful caucus revolt on grounds that the proposed House districts were too generous to the cities. The special session adjourned on April 20 with the state apparently still without a new apportionment law.[61]

Faced with this situation, the court of appeals ruled that the only apportionment acts in existence in mid-1963 were those of 1921. On November 8, 1963, after the state attorney general admitted that there was no longer any rational basis for the 1921 statutes, the court of appeals declared them unconstitutional "as being invidiously discriminatory under the Fourteenth Amendment of the Constitution of the United States." The judges enjoined the 1921 statutes' use in conducting any election after the 1964 general election but declined to order an "at-large" election in 1964. The court of appeals also declined to void the 1962 election of members of the General Assembly, suggesting instead that the 1965 session could provide relief by passing a new apportionment act.[62] In effect, it appeared the 1964 election would be held under the 1921 apportionments.

On February 10, 1964, however, the Indiana Supreme Court ruled that the 1963 apportionment act and two other laws vetoed by Governor Welsh were law because the governor had waited too long to veto them. The ruling meant that the 1964 general election would be conducted under the 1963 apportionment and left clouded the impact and future of the suit pending in federal court. Nelson

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[59] For a summary of the continuing course of the case, with its many substitutions of defendants and plaintiffs, and the addition or substitution of different and new causes of action, see Leon H. Wallace, "Legislative Apportionment in Indiana: A Case History," *Indiana Law Journal*, 42 (1966), 59-70. As Wallace noted, the basic issue presented was always whether the elections of members of the General Assembly were from legislatively created districts that did not violate federal constitutional standards.

[60] *Senate Journal*, 1963, pp. 556-57; *Laws*, 1963, pp. 4-8 (bound at the beginning of *Laws*, 1965).

[61] For a summary of the special session, Indianapolis *Star*, April 21, 22, 1963.

[62] Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:63-64.

Grills was pleased with the decision, but said the job was only "half done. My case . . . now apparently concerns only reapportionment of the Senate." Grills singled out the Senate apportionment because he believed it reflected a substantial discrimination against urban groups in favor of rural groups. By way of example, he said that on a strict population basis Marion County should have eight Senate seats, a gain of two-and-one-half over the total granted in the 1963 act.[63]

When the Democratic party captured both houses of the legislature and the governorship in the 1964 election, the way seemed open for the legislature in 1965 to reapportion both houses on the sole basis of population. Action on reapportionment once again seemed mandatory when the court of appeals decreed on February 26, 1965 (while the General Assembly was still meeting), that the 1963 apportionment act was unconstitutional under both the federal and state constitutions. This decision came in the wake of rulings by the United States Supreme Court in 1962 (*Baker* v. *Carr*) and 1964 (*Reynolds* v. *Sims*) that state legislative districts nationwide must be apportioned on the basis of "one man, one vote" under the equal protection clause of the Fourteenth Amendment.[64] The 94th General Assembly promptly enacted what turned out to be the first apportionment bill of 1965. The act used the 1960 federal census as the basis to increase representation of the cities and suburbs at the expense of rural counties. When the Indianapolis *Star* examined the result, it observed that "a long period of Democratic ascendancy in the Hoosier state" had become "a real possibility."[65]

Neither party was destined to enjoy ascendancy, long or otherwise, under the act. In June, 1965, a supplemental complaint was filed by plaintiffs in the *Stout* case who argued that "floterial districts" as provided for in the legislation violated the Fourteenth Amendment. United States Supreme Court guidelines defined "floterials" as districts consisting of two or more counties only part of which had representation in another district. The high court found such districting outside of Indiana could be "unbalanced not only in consisting of counties differing greatly in size, but unbalanced in containing counties of which at least one had representation elsewhere while at least one has no representation outside of the district." Although such districting had been used in Indiana for more than a century, and both the 1921 and 1963 apportionments contained such districts, the plaintiffs in *Stout* had not questioned their constitutionality before filing their June 14 brief. Nonetheless, on September 20, 1965, the court of appeals found for the plaintiffs. The first apportionment act of 1965 was unconstitutional because it provided for "unbalanced floterials." As examples, the court of appeals cited Marion County, which had seven Senate seats and shared one with Hendricks and Morgan counties; Lake County, which had five seats and shared one with Porter County; and St. Joseph County, which had two seats and shared one with Marshall County. According to the court, individual

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[63] Indianapolis *Times*, February 10, 1964.

[64] This decision is examined in Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:65-66.

[65] *Senate Journal*, 1965, pp. 599, 906, 1061; *Laws*, 1965, pp. 547-55; Indianapolis *Star*, March 7, 1965.

votes in Hendricks, Morgan, Porter, and Marshall counties would not register equally with those in larger counties in determining Senate membership. The court concluded if the legislature did not act on an apportionment plan that it found constitutional by December 1, the court would redistrict the state.[66]

On October 18, Governor Roger D. Branigin called a special session for the sole purpose of reapportioning to satisfy the court of appeals' mandate. The session passed eight reapportionment acts, designated Senate Plans A, B, C, and D, and House Plans A, B, C, and D. Except for both Plans A, each stated it was "the understanding and intent" of the General Assembly that the plan be void if the previous plan were constitutional. On November 18, the court of appeals approved Senate Plan B and House Plan C and four days later the special session adjourned.[67] (See Appendix B, Maps 47-48.)

Shortly before adjournment, Democrats circulated an analysis of the House and Senate plans upheld by the court of appeals which showed a favorable outlook for future Democratic legislative candidates. The analysis was prepared by the Indiana University Institute of Public Administration using a computer summary of the statewide vote in the 1958 through 1964 general elections. It showed the House with thirty-eight "usually safe Democratic seats" to only fourteen "usually safe Republican"; in the Senate it was seventeen "safe Democratic" to only seven "safe Republican." Republicans naturally were not pleased, stating "it was truly a sad day for fair and representative government" because Democrats and the court had treated voters "like sheep." But as Nelson Grills (back in the Senate after missing the 1963 session) observed, there had been "'no alternative' to a Federal Court action" because of the legislature's persistent refusal to reapportion.[68]

The 1965 apportionment was certainly a partisan Democratic product. But Democratic plans and computerized projections notwithstanding, the Republican party swept every general election held under the plan. (Republicans controlled the House 66 to 34 in 1967; in 1969 they controlled the House 73 to 27, the Senate 35 to 15; in 1971-1972 they controlled the House 54 to 46, the Senate 29 to 21.) These results led to additional challenges in court. Senator Patrick E. Chavis, Jr., from Marion County, a black, a lawyer, and a lifelong civil rights activist, was one of the Democrats defeated for reelection in 1968. After the election, Chavis filed a federal suit challenging the constitutionality of the 1965 apportionment laws. The suit claimed multi-member legislative districts as allowed in the acts were unconstitutional on grounds that the vote of minority blocs was diluted in at-large contests. Chavis pointed to blacks who lived in Center Township of Marion County as an example of such a minority bloc.

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[66] For quotations, Indianapolis *Times*, September 20, 1965. See also Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:67-68.

[67] *Laws*, 1965 (2nd s.s.), 15-23 (bound at the beginning of *Laws*, 1967); for the other plans, *ibid.*, 1-15, 23-45; for the decision, Indianapolis *News*, November 19, 1965. Since this was the second special session of 1965, the 94th General Assembly became the only one to convene three times in one year.

[68] Indianapolis *Star*, November 23, 1965.

The reapportionment problems of the Indiana General Assembly began anew with the filing of Chavis' suit early in 1969.

The United States District Court for the Southern District of Indiana ruled in Chavis' favor on July 28, 1969. The court, in imitation of the threat of the court of appeals in 1965, said it would redistrict the state if the General Assembly had not done so by October 1. When Governor Edgar D. Whitcomb refused to call a special session on the matter, the District Court issued its own map decreeing single-member districts and ordered the election of all 150 legislators in 1970 under its plan. The plan threw dozens of incumbents into the same districts with one or more other members. The court also ordered the twenty-five holdover senators from 1969 to run for reelection in 1970 if they wanted to keep their seats. The state appealed the decision to the United States Supreme Court, which, on March 16, 1970, stayed the District Court decision and agreed to hear the case. This action ensured that the 1970 general election would be held under the 1965 apportionment acts.[69]

Though the legislature won temporary relief until the Supreme Court rendered a final verdict, the 1971 session reapportioned both houses according to the "single-member district" formula spelled out by the lower court. Jack N. Smitherman of Mooresville, chairman of the House committee on apportionment, articulated the feeling of most legislators of both parties: "My thinking is that we are crazy if we don't do it. . . . We have 1970 figures available. If we don't do it, someone could file suit and knock all of us out of our seats for 1972." Smitherman hailed "the beginning of a new era" when bills establishing single-member districts became law. Although the acts pitted several incumbents in Marion and Lake counties against one another in 1972, House Majority Leader Richard A. Boehning of Lafayette was also pleased: "It is the best that man can do or a machine could put out."[70]

Alas, Smitherman's "new era" lasted less than one year. On June 7, 1971, the United States Supreme Court ruled 5 to 3 that Indiana's multi-member districts under the 1965 apportionment acts were constitutional. "Multimember districts have not been proved inherently invidious or violative of equal protection," said the majority. Also, said the court, it was not clear that single-member districts were the remedy "to insure representation to all sizable racial, ethnic, economic, or religious groups."[71] At its 1972 short session, the General Assembly repealed the 1971 apportionment acts and enacted bills that kept multi-member districts in the House.[72] (See Appendix B, Maps 49-50.)

The 1972 acts ended for a decade Indiana's half-century controversy over reapportionment. For thirty-five of those years the General Assembly had refused to enact a redistricting plan every six years as required by the state Constitution.

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[69] For the various stages in the litigation, *ibid.*, December 16, 1969, and Indianapolis *News*, January 24, March 17, 1970.

[70] *House Journal*, 1971, pp. 2086, 2201; *Senate Journal*, 1971, pp. 1983, 2058; *Laws*, 1971, pp. 14-104; quotations, Indianapolis *Star*, February 28, April 7, 1971.

[71] Indianapolis *Star*, June 8, 1971.

[72] *Laws*, 1972, pp. 210-379.

This failure led to intervention by federal courts in the early 1960s, eventuating in apportionment acts in 1963, 1965, 1971, and 1972 that were based upon the decennial federal census and the formula of "one man, one vote" as decreed by *Baker* v. *Carr*. Although the state Constitution's requirement that the General Assembly reapportion every six years was not rescinded until November 6, 1984, when voters approved an amendment removing archaic language from the document, the requirement had been moot since at least 1965. In retrospect, and in light of its continuous nonfeasance until 1963, the General Assembly was fortunate that no court or court-appointed commission forced a reapportionment plan upon lawmakers that was not enacted by the legislature. Although court-decreed districting had twice been a near thing, every general election in the state's history has been based upon districting plans enacted by the General Assembly. As the record makes clear, however, in most elections between 1931 and 1969 this happened in spite of, not because of, the state legislature. While the General Assembly was clearly negligent and can be blamed for not reapportioning in a timely fashion, it is not clear that other methods of apportioning would have achieved a better result. As Leon Wallace, the leading authority on the question, concluded after an exhaustive study of Indiana apportionments from 1816 to 1966: "There is no guarantee that a consistently better job would be done by the courts, the executive branch, a bi-partisan commission, or a panel of law school deans."[73]

Congressional Districting, 1931 to 1972

Congressional districting proved far less contentious and controversial than legislative apportionment during the era. The General Assembly passed major acts in 1931, 1941, 1965, and 1972; each was based ostensibly on the last preceding decennial census. The act of 1931 passed a divided legislature with bipartisan support by margins of 77 to 2 in the Democratic House and 31 to 7 in the Republican Senate. The boundaries of the twelve districts created by the act remained basically the same for ten years, although Democratic majorities did make minor changes in two districts in 1933 and 1935.[74] (See Appendix C, Map 64.) Under the act, Democrats won all twelve seats in 1932, and eleven of the twelve in 1934 and 1936. In 1938, as the state began to swing back to the Republican party, Republicans elected seven congressmen; in 1940 the Republican advantage stood at eight to four.[75]

When Indiana lost a congressional seat as a result of the 1940 decennial census, the Republican legislature of 1941 acted on a new districting act. The law passed the House 76 to 10 and the Senate 37 to 1 with most Democrats

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[73] Wallace, "Legislative Apportionment in Indiana," *ILJ*, 42:73.

[74] *House Journal*, 1931, p. 643; *Senate Journal*, 1931, p. 910; *Laws*, 1931, pp. 447-49; *ibid.*, 1933, pp. 920-21; *ibid.*, 1935, pp. 1256-57.

[75] For the party breakdown of Indiana's congressional delegation after each election, see State Board of Accounts, *Roster of State and Local Officials of the State of Indiana* (Indianapolis, 1928 to date; title varies).

refusing to vote for the measure but powerless to stop it.[76] (See Appendix C, Map 65.) The act remained in effect for a quarter century and under it the Republican party usually dominated Indiana's congressional delegation just as it dominated the General Assembly. Republicans filled nine of the eleven seats in 1942, 1944, 1946, 1950, 1954, and 1956; in 1952 the Republican advantage was ten to one. Democrats won seven of the seats in the Truman upset of 1948 and eight in 1958 during an election held in the midst of the deep, midterm "Eisenhower recession." In 1960 and 1962, Republicans captured seven of the seats while Democrats won six seats in the Johnson landslide of 1964, the last election held under the act.

Indiana's congressional districts were not redrawn on the basis of "one man, one vote" until Democrats controlled both houses of the General Assembly again in 1965. This was after the United States Supreme Court in 1964 declared the 1941 act invalid as a basis for districting in the 1960s. The act of 1965 passed 62 to 28 in the House and 35 to 15 in the Senate on a straight party line basis.[77] (See Appendix C, Map 66.) Republicans won six of the eleven seats in 1966 under this act before it was declared unconstitutional by the United States Supreme Court on January 9, 1967. According to the decision, the Indiana law violated the population guidelines for congressional districts decreed by the court in *Wesberry* v. *Sanders* (1964).

In 1968, the United States District Court for the Southern District of Indiana imposed its own districting plan upon the state because the 1967 General Assembly was divided politically and could not agree on a plan. This seemed the only alternative because Congress prohibited at-large elections in 1967 and the 1965 and 1941 Indiana districting laws had both been declared unconstitutional. Since it was "highly improbable" that the legislature could draw a constitutionally valid plan, said the court, its plan would continue in effect until the General Assembly otherwise provided for districts that were constitutionally drawn.[78] (See Appendix C, Map 67.) The court's plan remained in effect for four years, with the Republican party winning seven seats in 1968 and six in 1970.

The 1972 short session passed the last districting plan of the era. It was based upon the 1970 decennial census and federal court rulings regarding "one man, one vote." Republicans controlled both houses and the legislation passed the House 55 to 41 and the Senate 27 to 17 on a party line vote.[79] (See Appendix C, Map 68.) Republicans won seven of the seats in 1972 under the act. In the next three elections, held in the aftermath of "Watergate," Democrats won a majority. Democratic margins ranged from nine to two in 1974, to eight to three

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[76] *House Journal*, 1941, pp. 1046-47; *Senate Journal*, 1941, p. 1035; *Laws*, 1941, pp. 529-31.

[77] *House Journal*, 1965, p. 715; *Senate Journal*, 1965, pp. 788-89; *Laws*, 1965, pp. 469-70.

[78] For the decision, see Indianapolis *News*, February 15, 1968; for a summary of federal court actions regarding congressional districting in Indiana, see John S. Waggaman, "An Analysis of Indiana's Congressional Districting Problem," *Indiana Business Review*, 43 (1968), 14-24.

[79] *House Journal*, 1972, p. 845; *Senate Journal*, 1972, p. 917; *Laws*, 1972, pp. 416-18.

in 1976, to seven to four in 1978. In 1980, the last election held under the act, the split was six to five in favor of Republicans.

The Political Parties, 1930 to 1970

Indiana was an exclusively two-party state between 1930 and 1970. No third party seriously challenged Democrats or Republicans for any state or federal office. No third party held even one of the 3,000 seats available in the General Assembly during the era. Democrats enjoyed their greatest successes in electing governors and United States senators: six of the ten gubernatorial elections and eight of the thirteen Senate elections went to the party of Franklin D. Roosevelt. In the 1930s Democrats elected both governors and three United States senators (Frederick Van Nuys in 1932 and 1938 and Sherman Minton in 1934). In addition, during the 1930s Democrats held 48 of the 61 seats allotted to Indiana in the United States House of Representatives. During the 1940s Democrats won two of the three gubernatorial races, but Republicans elected every United States senator between 1940 and 1956 (Raymond E. Willis in 1940, Homer E. Capehart in 1944, 1950, and 1956, and William E. Jenner in 1946 and 1952). In the Indiana congressional delegation, Republicans held a 39 to 17 advantage in the 1940s and a 40 to 15 advantage in the 1950s. Republicans also won both gubernatorial elections in the 1950s. Democrats won every United States Senate election in Indiana from 1958 through 1974, electing R. Vance Hartke in 1958, 1964, and 1970, and Birch E. Bayh, Jr., in 1962, 1968, and 1974. Democrats also won two of the three gubernatorial elections held in the 1960s and narrowed the count in Indiana's congressional delegation to 31 Republicans and 23 Democrats.

In terms of the General Assembly, Democrats dominated the sessions of the 1930s; Republicans dominated the sessions of the 1940s and 1950s; and during the 1960s the parties were nearly even. Democrats enjoyed a slight numerical majority (51 per cent to 49 per cent) among the 1,256 individuals who served, outnumbering Republicans 641 to 615. In terms of seats held, however, which is decidedly the more important consideration, Republicans had an advantage: in the Senate, Republicans filled 527 of the 995 seats to 468 for Democrats; in the House, Republicans filled 1,074 of the 1,988 seats to 914 for Democrats. This paradox occurred because Republicans from rural counties generally served longer terms than Democrats from urban areas. (Five Senate seats and twelve House seats remained unfilled during the era due to illness, death, or resignation.) By decade, Democrats filled 71 per cent of the seats during the 1930s; Republicans filled 68 per cent of the seats in the 1940s and 63 per cent of the seats in the 1950s. In the 1960s the Republican advantage dropped to 53 per cent of all the legislative seats; in the Senate alone Democrats actually outnumbered Republicans, filling 131 seats to 122 filled by Republicans.

Through all of the fluctuations in political fortune and popular sentiment that occurred between the Great Depression and the war in Vietnam, the parties behind these statistics remained extremely competitive. Each was superbly organized to elect candidates from the precinct level up to the State House. The day when a Thomas Taggart or a Will Hays could dominate the state because

he dominated his party, however, ended with the Depression. Instead, between 1930 and 1970 each party was led by a succession of state chairmen of usually brief tenure because they could not unite the competing factions within their ranks. Democrats R. Earl Peters and Pleas Greenlee and Republican Arch N. Bobbitt were typical of those who served in the 1930s and 1940s. Republicans H. Dale Brown and L. Keith Bulen and Democrat Gordon St. Angelo typified leaders who came to the fore in the 1950s and 1960s.

Peters grew up in Decatur in Adams County. As a young man he was a political reporter for newspapers in Auburn and Fort Wayne. In 1913 Peters went to Washington as a secretary to Congressman Cyrus Cline. While in the nation's capital Peters studied law at Georgetown University and in 1916 he returned to Fort Wayne to practice. Elected twelfth district Democratic chairman in the mid-1920s, he became state chairman in 1926. Peters managed the Democrats' resurgence in the 1929 municipal elections and the party's sweep in the 1930 congressional elections. He was presiding during the 1932 triumphs of Paul V. McNutt and Franklin D. Roosevelt. Peters expected, as a reward, to be nominated for the United States Senate. Instead, he was caught in the middle of a struggle between "Regular" Democrats who, like himself, had ascended through party ranks, and those with McNutt, who came into prominence through the American Legion. In 1934 he was defeated in the primary election for the Senate nomination by Sherman Minton, a Legionnaire and "a relative newcomer to politics." After the loss, Peters was appointed state director of the Federal Housing Authority and edged out of politics. Although he retained his directorship until 1952, Peters was never again active in Indiana politics.[80]

Pleas Greenlee replaced Peters as state chairman. A native of Rush County, Greenlee moved to Shelbyville when he was ten years old. A decorated veteran of World War I, Greenlee served two terms as Shelby County clerk. He joined the American Legion in 1920 and took "advanced training" in politics with fellow Legionnaires Paul V. McNutt and Frank McHale. He managed McNutt's 1932 campaign and became the governor's executive secretary in charge of patronage. As state Democratic chairman from 1933 to 1936, Greenlee took credit for the Democratic sweep in the 1934 midterm election. After he lost a bid for the gubernatorial nomination to M. Clifford Townsend in the 1936 primary election, Townsend purged Greenlee. With Townsend as governor, most of Greenlee's allies lost their state jobs.

Unlike Peters, Greenlee did not disappear from the political scene. "For ten years the wily Shelbyville veteran worked away at the grassroots level" and in 1946 he was elected to a second term as state chairman. Greenlee was as successful the second time around as he had been the first, engineering Henry F. Schricker's upset victory for governor in 1948. Democrats won every gubernatorial election and three out of the four United States Senate races held during his two terms. They also won eighteen out of the twenty-three congressional

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[80] Indianapolis *Star*, January 13, 1952; Madison, *Indiana Through Tradition and Change*, 132.

seats contested between 1934 and 1948. Greenlee proved to be one of the least ideological chairmen in either party during the era. Clearly neither an "old line regular" like Peters nor a "liberal reformer" like McNutt, his objective always was to elect as many Democrats to office as possible. Greenlee resigned his state chairmanship in 1949 because of ill health; he died in 1954.[81]

Arch N. Bobbitt rose to power in the Republican party just after Pleas Greenlee suffered his 1936 reverse. Born in Eckerty, a town in Crawford County of less than one hundred population, Bobbitt graduated from Birdseye High School and attended Central Normal College at Danville, Indiana, for two years. He taught school in 1919 and 1920 and was admitted to the bar without formal legal education. In 1922 Bobbitt was elected Republican chairman of Crawford County and the second district. Feeling the lack of a law degree, in 1925 Bobbitt resigned these posts and moved to Indianapolis where employment in the state auditor's office permitted him to study law part time at the Benjamin Harrison Law School. He received his LL.B. in 1928, the same year that he was elected auditor of state. Bobbitt lost for reelection as auditor in 1930 and set up a legal practice in Indianapolis. During the McNutt era he worked in various capacities for the Marion County Republican party. Bobbitt was elected state chairman in 1937, just as the Republican party stood ready to reassert itself. Nationally, the Democratic party was split over Franklin Roosevelt's scheme to "pack" the United States Supreme Court with additional judges more sympathetic to New Deal legislation; in Indiana the party was split between McNutt forces who wanted to purge Frederick Van Nuys and old-line regulars who supported Van Nuys for reelection to the United States Senate.

As state chairman, Bobbitt utilized some techniques he first learned in Marion County. For instance, because urban politics was more time consuming, precinct committeemen were paid. "In southern Indiana," Bobbitt recalled, "hell, nobody ever thought of paying a precinct committeeman. That was his patriotic duty and he did it." The office of county chairman was also a paid, full-time job in Marion County. Bobbitt made it so all over the state.[82] He made perhaps his most important contribution when he brought Homer E. Capehart and his Wurlitzer Juke Box fortune into the Republican party. The state chairman planned the famous "cornfield conference" held at Capehart's farm in Daviess County prior to the election of 1938. Capehart underwrote the $25,000 cost so that party workers from all over the state could attend a "clam bake" and hear prominent national and state Republicans expound on the evils of the New Deal and the virtues of Republicanism. State and national commentators, as well as historians, saw Capehart's largesse as a major factor in the Republican party's resurgence in the subsequent election.[83] In Indiana Republicans won the House of Rep-

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[81] Quotations, Indianapolis *Times*, May 25, 1946. See also Indianapolis *News*, September 30, 1954.

[82] Bobbitt oral history interview, 3rd ms., 19-20, Indiana Division, ISL.

[83] *Ibid.*, 2nd ms., 7-10. For the significance of this affair in state and national politics, see William B. Pickett, "The Capehart Cornfield Conference and the Election of 1938: Homer E. Capehart's Entry into Politics," *Indiana Magazine of History*, 73 (1977), 251-75.

resentatives for the first time in a decade, the prelude to two decades of Republican ascendance.

The party's wide-ranging victory in 1940—everything but the office of governor—marked the high point of Bobbitt's career as state chairman. His downfall came when the Indiana Supreme Court overturned the scheme to strip Governor Schricker of power. Bobbitt claimed that he was dropped because the court overturned the "ripper" laws; the real reason, he added, was that Ralph Gates wanted to get control of the party and use it to run for governor.[84] Whatever the cause, Bobbitt was ousted in 1943 in a factional fight between conservative and more moderate elements in his party. The rivalry between the two factions would last more than twenty years. As a general rule the conservative wing during these years, led by United States Senators Capehart and William Jenner, dominated the General Assembly. The moderate wing, on the other hand, might be better styled the gubernatorial faction as it was led by men like Ralph Gates and George Craig. The in-fighting did not prove harmful to Republican fortunes statewide until the 1960s. Such factionalism was hostile, however, to long tenures for state chairmen; while Bobbitt held the post for four years, none of the thirteen men who succeeded him lasted more than twenty-seven months. They divided almost evenly between conservatives, moderates, and pragmatists, *i.e.*, political technicians who supported all Republicans regardless of ideological leaning.

H. Dale Brown, born in Tucson, Arizona, in 1910, moved to Indianapolis when he was five years old. He entered politics as a precinct committeeman in 1932, one year after starring as an end on the Indiana University football team. Prevented from finishing college by the Great Depression, Brown started a casket manufacturing business. He sold the business in 1940 when he was elected chairman of the seventh ward on the near northeast side of Indianapolis. For the next quarter century he supported himself as a full-time, "doorbell-ringing, handshaking politico, [and] proud of it." Governor Gates named Brown director of the Bureau of Motor Vehicles in 1945. During the next four years he dispensed patronage as "boss" of 500 jobholders in the bureau and its license branches throughout the state.[85] Brown lost his job as director when Henry Schricker took office in 1949.

Brown's career reads as a textbook case of the steady rise of a successful political professional. A thoroughgoing political mechanic whether as precinct committeeman in 1932, ward chairman in 1940, district chairman in 1949, or Marion County chairman in 1950, Brown usually delivered huge Republican majorities on election day. In 1951 he managed the campaign of Alex Clark, the first Republican mayor of Indianapolis since 1927. On November 20, 1962, after the Republican party had lost three consecutive statewide elections, Brown

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[84] Bobbitt oral history interview, 3rd ms., 5-8, Indiana Division, ISL. Although finished as state chairman, Bobbitt's career was far from over. He served as Indianapolis city attorney in 1943-1944, as city corporation counsel from 1944 to 1948, and as a justice of the state Supreme Court from 1951 to 1963.

[85] Indianapolis *Star*, July 11, 1948.

was elected state chairman. As the Indianapolis *Times* stated: "He got the job because he has a record of winning. While other big city areas go Democratic, and even Indiana is lost, Brown's county still goes GOP." Brown attributed his success to his practical approach: "I'm a realist. You can't be successful without winning." That was why he supported "liberals" (Brown's description) Dwight D. Eisenhower and George N. Craig in 1952 and "conservative" Harold W. Handley in 1956. That was also why he said in 1962 that Governor Nelson A. Rockefeller of New York would be best as the party's presidential nominee in 1964.[86]

Brown's early endorsement of Rockefeller alienated the powerful conservative wing of the party; its choice was Arizona Senator Barry M. Goldwater. Brown also estranged the Young Republicans in Marion County, consistently opposing letting them elect their own officers. "The Young Republicans are going through what we consider their training period," Brown explained in 1961. "You don't develop by working outside the organization."[87] Brown's showdown with party conservatives came just seven months after he became state chairman. On May 6, 1963, the eve of the primary election for mayor in Indianapolis, Brown resigned his state post though retaining the eleventh district and Marion County chairmanships. "Outside forces" (*i.e.*, Goldwater supporters) were trying to wreck his organization, he said. He later privately predicted a Republican debacle in 1964 if Goldwater were nominated.[88]

Brown's showdown with the "young Turks" in Marion County came after Democrats elected both Lyndon Johnson and Roger Branigin while swamping Republicans in Marion County for the first time since 1936. After the 1964 election, Brown found himself engaged in an eighteen-month fight to keep control of his organization. The Marion County party split into three warring factions, continuing the "Republican tradition of burying the hatchet in one another's backs instead of in the ground . . . ." In addition to Brown and his county machine, a "Marion County Republican Victory Committee," formed in 1964 to support conservative Don A. Tabbert for Congress and Barry Goldwater for president, and an insurgent "Republican Action Committee," incorporated in February, 1965, for the express purpose of ousting Brown, fought in the political arena. The Action Committee was led by attorney L. Keith Bulen and included on its board of directors businessman Rexford C. Early and veterinarian Lawrence M. Borst, Jr.

Bulen, born in Pendleton, Madison County, in 1924, moved to Indianapolis upon completion of his undergraduate work at Indiana University in 1949. During the 1950s he became, in turn, a precinct committeeman, ward chairman, and

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[86] "Winning Is A Must for State GOP Boss Dale Brown," Indianapolis *Times*, November 23, 1962.

[87] "Brown Firm in Stand on Young GOP," Indianapolis *News*, July 1, 1961.

[88] "Brown Quits State GOP Job," Indianapolis *Star*, May 7, 1963. The Indianapolis *Times*, January 26, 1965, stated that Brown fell into disfavor with many Marion County Republicans because of his coolness to the Goldwater candidacy and his private forecasts of a GOP debacle "last November."

chairman of the Marion County Young Republicans. He served in the state House of Representatives at the 1961 and 1963 sessions. In 1965 his Young Republicans formed the core of the Action Committee that opposed H. Dale Brown. Among its sixty-six directors were eight ward chairmen or vice-chairmen. Although basically conservative, this was a more urban-oriented group than the Republicans who had dominated the General Assembly from World War II to 1964. The Action Committee was also considerably less doctrinaire than Tabbert's Victory Committee.[89] The Victory Committee itself disbanded in favor of Bulen's forces in late February, clearing the path for Bulen and his associates. Dale Brown's political career and the fratricidal feuding in Marion County both ended on May 3, 1966, when Brown and his organization lost the post of county chairman to Bulen and the Action Committee.

Under Bulen, first the Marion County and eventually the state Republican party rose to dominate Indiana politics. Bulen's importance as a political leader rose with the fortunes of the party. He served as county and district chairman from 1966 until 1974 and as state coordinator of the Nixon for President effort in 1968 and 1972. Bulen became nationally prominent as Republican committeeman from Indiana between 1969 and 1977, and later as one of the state's leaders in Ronald Reagan's successful run for the presidency.

Action Committee members whose political fortunes rose with Bulen included Lawrence M. Borst, Jr., Charles E. Bosma, John M. Mutz, and William D. Ruckelshaus. Each of these men was elected to the Indiana House in 1966, the same year that Action Committee member Leslie Duvall was elected to the state Senate. Borst and Bosma joined Duvall in the Senate in 1969; until the 1980s all three held leadership positions when Republicans enjoyed a majority. Mutz moved to the Senate in 1971 and was elected lieutenant governor in 1980. In 1967 Bulen's machine elected Richard G. Lugar mayor of Indianapolis. After two terms as mayor, Lugar retired Vance Hartke as United States senator in 1977. Ruckelshaus, who was the first freshman in the history of the General Assembly to be elected House majority leader, nearly defeated Birch Bayh for the United States Senate in 1968. He went on to serve in prominent posts in the Nixon and Reagan administrations. At the beginning of Nixon's first term, Ruckelshaus was named assistant attorney general in charge of the Civil Rights Division, Department of Justice. In 1970 he was named director of the Environmental Protection Agency. In 1973 Nixon named him acting director of the Federal Bureau of Investigation when Patrick Gray had to resign. During the Watergate scandal, he became deputy attorney general, a post he resigned when Nixon ordered him to fire Archibald Cox as special prosecutor. Ruckelshaus returned to Washington in 1983 when Ronald Reagan asked him to head the Environmental Protection Agency following Anne Burford's resignation. In 1969 the Bulen machine, with its many members in the legislature, pushed a bill through the General Assembly that joined Indianapolis city government with

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[89] For the Victory Committee and "hatchet" quotation, Indianapolis *News*, February 25, 1965; for the Action Committee roster, Indianapolis *Star*, February 5, 1965.

Marion County government in a system that merged Democratic city voters with Republican suburban voters. As Bulen had hoped, since the adoption of this Unigov system, Republicans have held the mayor's office and dominated the City-County Council. As the era ended Bulen was widely recognized as the man who forged a new Republican party in Indiana, a party that was more urban than rural in its basic orientation. It was also a party destined to control state government for at least two decades.

Gordon St. Angelo of Huntingburg came to the fore for Democrats just as H. Dale Brown was ending his quarter century of service to the Republican party. St. Angelo was elected Dubois County chairman in 1958 and eighth district chairman in 1960. He served in these posts until 1964 when he resigned to manage Roger D. Branigin's campaign for governor. With Branigin's victory, St. Angelo was elected to what Indianapolis *News* political editor Edward Ziegner described as "that high profile, high risk, high tension job" of Democratic state chairman.[90] St. Angelo, at age thirty-six one of the youngest men ever to hold a position notorious for its rapid rate of turnover, established a longevity record of nine years and three months as state leader of his party.

The new chairman brought to his job a sense of practicality tinged with idealism and a partisan zest for battle. His approach was shown by his definition of politics as "the business of blending idealism and personalities into practicalities. It is the most important and exciting business in the world today." To St. Angelo, effective party workers must be something more than politicians: they must be leaders in their community, their church, school, and civic organizations. St. Angelo established a leadership training course on the precinct level to build such workers. He was the first state chairman of either party to attempt a statewide political census using thousands of volunteers backed up by sophisticated electronic computers. Because of such techniques, St. Angelo was convinced that a majority of voters would support Democrats and help Branigin build "a New Indiana."[91]

The "New Indiana" envisioned by St. Angelo never came about. By 1966 the Democratic party was even more split than the Republican party had been a year earlier. In that year the Indianapolis *News* discerned at least three major factions plus additional subfactions among Democrats. The biggest and most important was the group led by St. Angelo and Branigin, due to the power, prestige, and influence these two could wield. The second largest faction gathered around former Governor Matthew E. Welsh and his close associates, former state chairman Manfred Core, and Jack New, state treasurer. These Democrats had their eyes on recapturing the governorship for Welsh in 1968. The third major faction was led by Senator Birch Bayh who had an organization of his own and used his power and influence to ensure his reelection in 1968. By 1970 the supporters of Senator Vance Hartke constituted a fourth major faction, intent primarily upon Hartke's reelection.

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[90] Indianapolis *News*, March 30, 1974.

[91] "St. Angelo Tells Demo Aims in State," Indianapolis *Star*, December 26, 1965.

A major subfaction in 1966 was led by Lieutenant Governor Robert L. Rock, who wanted to become governor in 1968. Rock's channels to the Branigin-St. Angelo and Welsh-Core groups were deemed "clogged badly" and his channels to Hartke were "only partly open." Bayh and Rock were "civil" to one another although there was not any "great rapport" between them. Marion County Democrats constituted another group. They concentrated mainly on electing a Democrat as mayor of Indianapolis in 1967. There was also a "legislative faction" led by House Minority Leader Richard C. Bodine of Mishawaka and Senate Majority Leader Jack H. Mankin of Terre Haute. Both of these men eyed a possible run for governor in 1968. Finally, the five Democratic congressmen from Indiana were "more or less, off in a little subfaction by themselves."[92] Given this situation and the Republican revival under Bulen, St. Angelo found it impossible after 1966 to elect Democrats to major state offices or return a majority in the General Assembly.

The highlights of St. Angelo's decade as state leader were the reelection of Bayh in 1968 and the reelection of Hartke in 1970. But the 1968 election also saw Richard Nixon carry Indiana and Edgar D. Whitcomb capture the State House for the Republicans for the first time since 1960. St. Angelo remained at his post in the early 1970s as the party survived the presidential bid of South Dakota Senator George McGovern. Then in 1974, as Democrats stood ready to capitalize on the Watergate scandal, St. Angelo resigned to become an executive with Lilly Endowment, Inc. One measure of St. Angelo's ability was the respect he earned from the opposition. Upon the announcement of his resignation, Republican national committeeman L. Keith Bulen wrote St. Angelo a letter which read in part: "As a partisan competitor I have learned your measure as a highly effective political leader, perhaps without peer in our nation. You have served your party, your state and your country with honor and integrity during difficult times, and when the political process sorely needed such a practicing example."[93] Whatever the reliability for history of public communications such as Bulen's letter to St. Angelo, both of these men were effective, tough, smart, and politically sophisticated professionals. Each relished the rough and tumble of politics, as did most of the chairmen who served both parties during the era.

The history of Indiana politics from 1930 to 1970 shows clearly that the Democratic and Republican parties dominated the state. Each was organized, sometimes superbly, to elect candidates at all levels of government. As was true in every previous period, each was also fiercely partisan. Democrats were ascendant in the 1930s; Republicans had the edge in the 1940s and 1950s; in the 1960s the two were nearly equal although Democrats enjoyed a slight advantage. Every decade saw both parties rent by factionalism. The in-fighting, though never fatal, between McNutt Legionnaires and "old line" or "Regular" Democrats ensured brief tenures for state chairmen like R. Earl Peters and Pleas Greenlee. Similar

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[92] "Democrats' Scraps Reach Crisis Point," Indianapolis *News*, December 24, 1966.

[93] As cited by Edward Ziegner, "Gordon St. Angelo, Hail and Farewell," *ibid.*, March 30, 1974. See also "St. Angelo Sets 'Longevity' Record," Indianapolis *Star*, May 13, 1973.

in-fighting between conservative and moderate Republicans ensured equally brief tenures for Republican state chairman H. Dale Brown and many others. A detailed political history of the era would show such fratricidal tendencies rife in both parties in many of Indiana's ninety-two counties. Nonetheless, the Democratic and Republican parties always survived to fight another day. Each was always ready to provide an alternative when Hoosier voters tired of this faction or that faction or, tiring of the party that was "in," threw the "rascals out."

Chapter 15
The Legislative Process

One of the achievements of Progressive reformers in Indiana, seen as noteworthy at the time, was the primary election system. The system first appeared in Marion County in 1901 and developed until the Primary Election Law of 1915 deprived party machines all over the state of exclusive power over nominations for public office. No reform was more bitterly opposed by party bosses and other politicians between 1916 and 1930. This opposition culminated in 1929 with repeal of the general primary through an amendment to the 1915 act. The amendment overturned the direct primary system by restoring to party conventions the power to make most nominations for public office. The repeal proved short-lived, however, because of the wide popular support for direct primaries. Unanimous bipartisan support in 1931 in both houses restored primaries for legislative candidates.[1] As a result, most of those who ran for the state House of Representatives or Senate between 1932 and 1968 had to survive a May primary before they could run in the November general election. Power to choose candidates for United States senator and for major state offices alternated between the primary system and the convention system through most of the era. But from 1932 on, legislative candidates were chosen most frequently in the May primary.

Running for the General Assembly

In every era candidates for the Indiana General Assembly have been overshadowed by the glare of candidates running for offices seen as far more prestigious. During the pioneer era, when there were annual legislative elections, candidates for president of the United States, Congress, or statewide office always received greater attention from political parties and the public whenever these offices were on the ballot. This secondary status for seats in the General Assembly became even more pronounced with the change to biennial elections under the 1851 Constitution; henceforth in every campaign the would-be state lawmaker competed directly for public approval with federal or state office seekers. Every two years, in every congressional district, attention focused on the race for the United States House of Representatives. The plight of candidates for the General

[1] The bill passed the Senate 38 to 0, the House 84 to 0. *Senate Journal*, 1931, pp. 658, 938, 987; *House Journal*, 1931, p. 1020; *Laws*, 1931, pp. 550-52. Succeeding general assemblies amended the 1915 Primary Law so that gradually it again encompassed most public offices. A comprehensive revision in 1945 added that delegates to state conventions must be selected in the May primary. State conventions retained the power to endorse candidates for president of the United States and to select nominees for the U.S. Senate and state offices. *Laws*, 1945, pp. 741-54. In 1953, the presidential preference primary was restored with the provision that the winner must be supported by the state delegation to the national convention on the first ballot. *Ibid.*, 1953, pp. 720-21.

Assembly vis-a-vis candidates for Congress was described vividly by John R. Sinks, Jr., of Fort Wayne who served six terms in the House and two in the Senate. Sinks, a high school teacher and guidance counselor, won his first election in 1964. Two decades and seven successful campaigns later he stated: "I still get the question: 'John, when do you leave for Washington?' And that's after 20 years."[2]

The direct election of United States senators after 1914 detracted further from the attention and funding for those seeking a seat in the General Assembly. The situation was worse every four years when presidential and gubernatorial elections coincided. In such years, the candidate for the Indiana House or Senate in great measure depended on the popularity of those seeking the higher offices. The "coattail effect" was most pronounced in Indiana during presidential elections. Except for 1948 when Democrats won the House while Republican Thomas E. Dewey carried the state and 1960 when Democrats won the Senate while Republican Richard Nixon carried the state, the party that carried the state's presidential electoral vote between 1932 and 1968 also elected majorities to the legislature.

As in previous eras, most of those who served in the General Assembly began their political careers on the local level. At least 480 legislators (38 per cent of the total) served as precinct committeemen or as party chairmen at the ward, city, or county level. Seven hundred twenty-four legislators (57 per cent of the total) had held an elected office such as township trustee, city councilman, or county commissioner. While many legislators continued to be active in local politics or government during and after their legislative service, the vast majority had their first political experience before advancing to the General Assembly.[3] When a person ran for the legislature, previous service to the party or previous election to an office was often crucial. Such experienced, would-be lawmakers knew the precinct committeemen and party chairmen of his city and county personally, the very people who decided the party slate in both the primary and general elections. Unslated candidates rarely won election to any office.

Despite the importance of party endorsement, Matthew E. Welsh noted that when he ran for governor "candidates for the legislature did not receive much support" from the Democratic state committee. "Nor were county party organizations intensely concerned with these races."[4] While Welsh was describing the situation in his party during the late 1950s, his words held true for candidates of both parties during almost all elections in the state's history. Whether Democrat or Republican, the aspiring lawmaker had to rely on his own resourcefulness and imagination to sway the voters. Since he was usually the least-known candidate on the ballot, establishing name recognition customarily was the main task. Printed materials such as handbills or match books carrying capsule messages extolling

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[2] "Assembly more effective with age," Indianapolis *Star*, January 23, 1984.

[3] Percentages based upon quantification of data in *A Biographical Directory of the Indiana General Assembly* (2 vols., Indianapolis, 1980, 1984), Vol. 2, *1901-1984*.

[4] Matthew E. Welsh, *View from the State House: Recollections and Reflections, 1961-1965* (Indianapolis, 1981), 14.

an individual's virtues were the least expensive and most widely used forms of self-advertisement. Favorable coverage in the district's press was equally indispensable. If the opposition owned the newspaper, however, such coverage was difficult and sometimes impossible to arrange. More expensive forums, such as radio or television spots, were almost always beyond the candidate's financial resources. Thus, the overwhelming majority of campaigners between 1930 and 1970 used handbills and personal contact with voters to make themselves better known. Personal contact was a matter of door-to-door canvassing of the district and attendance at political and non-political gatherings. While a few candidates made it to the General Assembly because they were local celebrities long before they ran for public office, most were not known beyond local party circles. The case of John Van Ness, a state senator from Porter County between 1939 and 1957, was typical.

Van Ness founded an electrical contracting company in Valparaiso in 1920 and joined the Republican party because he opposed the tax policies of Democrats. He was elected to the county Tax Adjustment Board in the mid-1930s and decided to run for the state Senate when incumbent William Brown of Hebron was killed in an automobile accident on August 18, 1938. Within a week the party called a special convention to slate a candidate to replace Brown on the ballot. Van Ness, after lobbying most of the precinct committeemen in a district that embraced the completely rural counties of Jasper, Newton, Porter, and Pulaski, was the unanimous choice.

Once nominated, Van Ness sought as much public exposure as possible. The routine he hit upon, which kept him in office for twenty years, included attendance at the Newton County Fair and the "traditional" bean supper at Lake Village. A dinner meeting in Congressman Charles Halleck's hometown of Rensselaer was a "highlight," while chicken suppers at Remington "were a big attraction, not to be missed." A picnic at Winamac was also a "must," as were the harvest suppers at Boone Grove, Wheeler, and Chesterton. At each stop, Van Ness gave a short talk and shook as many hands as possible. "I do not know how far I'll go in politics," he would begin, "but . . . I am not going to make the mistake one of my grandfathers made." He then told the story of how his forebear once ran for president of the town board and told Grandma Van Ness on election day that she was going to have the honor of sleeping with the village president that night. Alas, Grandpa lost the election and returned home to find his wife dressed to leave. "Where are you going?" he asked. "Well, I'm going to do what you said I would do when you left for the meeting," Grandma replied. Van Ness would then launch into his set speech, punctuated with such well-worn phrases as doing his best "in this great cause" or in "these uncertain, unsatisfactory, chaotic times."[5] His margin of victory in 1938 was just over 1,500 votes. This formula won him reelection four times and saw his margin in 1954, his last election, increase to over 10,000 votes.

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[5] Harriet B. Van Ness, *President Pro Tem Emeritus, Indiana, U.S.A.* (Chesterton, Ind., 1965). This book is divided into eighteen unpaged chapters of approximately six pages each. For Van Ness' campaigns, see chapters 2, 3, 4, and 8.

Campaigns such as John Van Ness' were duplicated in rural areas until the 1960s when television and reapportionment obliterated many of the differences between town and country. Republican Charles T. Miser, a civil engineer who represented DeKalb County in the House from 1941 to 1957, was endorsed after serving terms as county surveyor and Auburn city engineer. He defined campaigning as nothing but "being where people are and hollering at them and talking with them, smiling as you go by." Miser credited his success in nine elections in part to staking out a strategic spot at the county fair.[6]

Robert P. O'Bannon, editor and publisher of the Corydon *Democrat*, used a similar strategy when he ran for the Senate in 1950 in a district embracing Crawford, Floyd, and Harrison counties. O'Bannon had already served two terms on the Corydon School Board and one term as president of the Indiana Democratic Editorial Association when his party asked him to run. He attended night meetings and square dances all over the district although he had "never square danced before." His itinerary also included harvest suppers at English and sunrise visits to factory gates in New Albany. The three Democratic county committees contributed less than $200 to finance O'Bannon's first effort, including "about $70" for handbills. He ran five times between 1950 and 1966 and never lost in a Democratic district.[7]

The campaign style and agenda of would-be lawmakers whose constituencies embraced ethnic minorities in metropolitan districts differed sharply from those in rural districts. In an area like Lake County the itinerary might include Knights of Columbus communion breakfasts and meetings of the Polish National Alliance or Slovak Sokols instead of harvest suppers and the county fair. Joseph E. Klen of Whiting and Hammond developed an almost foolproof formula for winning votes in such settings: he served at seven sessions between 1935 and 1961. Between and after his terms in the Indiana House, Klen was elected Hammond city controller in 1956, Lake County recorder in 1964, and mayor of Hammond twice (in 1967 and 1971). During his first campaign in 1934 Klen attributed his success to his ability to speak the language of his constituents. In addition to English and Bohemian, which he learned in school and at home respectively, Klen claimed to speak Polish, Hungarian, Serbian, Croatian, and Slovak. "I learned one and found it easy to pick up the others," said Klen. He also noted that legislating was harder than campaigning because legislative language—"a bill for an act to amend an act"—was more difficult to master than his repertoire of seven tongues.[8]

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[6] Miser oral history interview, 1st ms., 31-33, Indiana Division, Indiana State Library, Indianapolis; Miser file, Centennial History of the Indiana General Assembly, Archives Division, Commission on Public Records, Indiana State Library.

[7] O'Bannon oral history interview, 2nd ms., 89-93, Indiana Division, ISL; O'Bannon file, Centennial History, ISL. O'Bannon's campaign costs seem low even for a rural district. Democrat Von A. Eichhorn, senator from Adams, Blackford, and Wells counties from 1939 to 1965, spent less than $250 per primary campaign in losing efforts for a House seat in the 1930s. When he won the Senate seat in 1938, however, he spent $800 on the campaign. Eichhorn oral history interview, 1st ms., 74, Indiana Division, ISL.

[8] Indianapolis *Star*, March 5, 1935; Klen file, Centennial History, ISL.

The black candidates during the era all ran in urban districts and sometimes had to overcome overt, and in some instances possibly unintentional, racism. On the eve of the primary election in 1940, the Indianapolis *News* published a straightforward statement that "Robert Lee Brokenburr, colored, Indianapolis attorney and businessman, announced today he will be a candidate for the Republican nomination for state senator . . . ."[9] Obviously, white candidates were never identified as such and it is unknown whether the description in Brokenburr's case helped or hurt his chances. He had enjoyed a successful law practice in the city since 1910 and also was chairman of the board of the highly profitable cosmetics firm, the Madame C. J. Walker Manufacturing Company. In addition, he had served the Republican party in various capacities for more than thirty years and was a former Marion County deputy prosecutor. In the general election in November Brokenburr persisted in a low-key campaign. His reliance on the solid support of the Marion County Republican machine was not misplaced and in 1941 he became Indiana's first black senator; he was reelected three times between 1944 and 1960.[10]

In a few instances name recognition proved more important in gaining nomination and election than previous service to the party or in public office. Raymond P. (Ray) Crowe, a black who represented Marion County in the House for five terms, was a celebrity long before he became active politically. Born in Franklin, Indiana, Crowe moved to Indianapolis and graduated from the then racially-segregated Crispus Attucks High School. He earned a degree in physical education from the University of Indianapolis (Indiana Central University) in 1938 and returned to Attucks as its basketball coach. His teams dominated the state tournaments in the 1950s when Crowe coached extraordinary talents such as Oscar Robertson and Hallie Bryant, both later famous as professional athletes. With no previous political experience, Crowe won election in 1966 as a Republican from a district that normally elected a black Democrat.[11]

While Ray Crowe was the best known legislator to gain fame because of his association with "Hoosier hysteria," he was but one of a large number of lawmakers during the era who found that high school basketball eased their path to the General Assembly. Other coaches included Kenneth King Telle and William H. Herring. Telle served in both the House and Senate from 1967 to 1976 after coaching at Remington and Valparaiso for thirty years. He was also a past president of the Indiana High School Athletic Association when he first ran for office. Herring (House, 1955-1965, Greene County) coached at several schools in his district between 1948 and 1970. Merrett R. Monks (House, 1949-1955, and Senate, 1959, 1961, Randolph County), Jesse E. Greene (House, 1951, 1953,

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[9] Indianapolis *News*, April 4, 1940.

[10] Brokenburr file, Centennial History, ISL. At his first session, Brokenburr incurred opposition from the Indiana High School Athletic Association with a bill to allow black schools to participate in the state basketball tournament. Although the bill failed in the House after passing the Senate 36 to 3, the association changed its rules and black schools were admitted to the tournament in 1943. *Senate Journal*, 1941, pp. 342, 808; *House Journal*, 1941, p. 1372.

[11] Crowe file, Centennial History, ISL.

Delaware County), and Fred A. Bills (House, 1957, Henry County) were all basketball referees, indicating perhaps that any connection with Indiana's favorite sport paid political dividends. Thomas A. Hendricks (Marion County, House, 1933, Senate, 1935-1941) and Eldon F. Lundquist (Elkhart County, House and Senate, 1961-1976) illustrated yet a third way to gain popular favor through basketball before running for the General Assembly. Between 1925 and 1932 Hendricks became the first man to broadcast the state high school finals on radio. These broadcasts, limited to the Indianapolis area, made Hendricks a household word in his district. Lundquist broadcast high school athletic events in Elkhart County from 1935 to 1968. He thus enjoyed instant name recognition in his home county for a quarter century before he ran for office.[12]

The most famous sportscaster in the General Assembly during the era was Elgar I. Higgs of Connersville. Higgs joined the Connersville *News-Examiner* as sports editor in 1921. He wrote a pioneering high school basketball column and was one of the founders of the Indiana Sports Writers Association. He "held the distinction of being one of the first basketball columnists of the air," announcing Connersville High School games in the mid-1920s. When radio station WFBM in Indianapolis began broadcasting the IHSAA finals statewide in the 1930s, Higgs provided the play-by-play. In the meantime, he became managing editor of his newspaper, publicity director of the Hoosier Taxpayers' Association, and Indiana correspondent for the Cincinnati *Enquirer*. Higgs had been active in the Republican party since at least 1908, and was state publicity director in 1920 for Warren G. Harding's presidential campaign. When he ran for public office in 1940 Higgs was not only well-established in party circles but known throughout the state for his sportscasts. He represented Fayette, Rush, and Shelby counties in the Senate from 1941 until ill health forced him to retire after the 1947 session. He won both of his elections with a pro forma effort.[13]

Victor E. (Vic) Aldridge, William F. Condon, and Donald R. Lash were lawmakers who reached the General Assembly with a sports connection other than basketball. Vic Aldridge, a native of Martin County, started an athletic career as a pitcher with the Indianapolis Indians professional baseball club in 1915. Between 1918 and 1931, Aldridge compiled a winning major league record with the Chicago Cubs, Pittsburgh Pirates, and New York Giants. He made his off-season home in Terre Haute and by the time he retired from baseball he was one of the city's best known residents. A Democrat, Aldridge entered politics and won election as state senator three times between 1936 and 1944. William F. Condon, a native of Brown County, played for the Indianapolis Indians in the 1930s and served Howard County for three terms as a state representative in the 1950s.[14]

Donald R. Lash was the best known amateur athlete to serve as a legislator. A member of one of the United States relay teams at the 1936 Olympics in

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[12] Telle, Herring, Monks, Greene, Bills, Hendricks, and Lundquist files, *ibid.*

[13] Higgs file, *ibid.*; Connersville *News-Examiner*, October 26, 1951.

[14] Aldridge and Condon files, Centennial History, ISL.

Berlin, Germany, Lash had established world records in track while a student at Indiana University and was the first American to run two miles in less than nine minutes. In 1938 he became the first Hoosier to win the James E. Sullivan Award, given annually by the Indianapolis-based Amateur Athletic Union to the person judged the outstanding amateur athlete in the nation. After serving twenty years as an agent in the Indianapolis office of the Federal Bureau of Investigation, Lash in 1962 became a regional director for the Fellowship of Christian Athletes. World famous during the 1930s, Lash's renown eased his entry into politics in 1972 when he was elected to the first of five terms as a representative from Parke County.[15]

College football helped Thomas J. Leahy win election to the House in 1946; it helped Roscoe G. Scott do the same in 1948; and in 1964 it helped Arthur R. (Art) Murakowski. Leahy, born in South Dakota, moved to South Bend in the late 1930s when his brother Frank became football coach at the University of Notre Dame. Leahy the legislator, with no political experience before or after his one term in Indianapolis, on the basis of his brother's fame was nominated by the Republican party and served in 1947 from a normally Democratic district.[16]

Roscoe G. Scott was remembered in Greencastle as "a local boy [who] tips the beams at 280 pounds" while playing "splendid football" at DePauw University from 1925 to 1927, almost a quarter century before he ran for office. Scott weighed 355 pounds as a Greencastle policeman in 1931 when he claimed "the title of the nation's heaviest officer." His great girth made him easily recognized around town. Later his enormous strength as a teamster and auto mechanic—witnesses swore that Scott carried pianos on his back and lifted engine blocks out from under the hood—made him a Putnam County legend. In 1948, at 390 pounds, Scott ran as a Democrat for the legislature. Known for "all those good things fat jolly men are supposed to do," he passed out candy to children, exchanged pleasantries with adults, rarely gave a speech, and won the election in a district that almost always went Republican.[17]

Art Murakowski was an All-American fullback from East Chicago when he scored the go-ahead touchdown for Northwestern University against the hitherto undefeated and untied University of California in the 1949 Rose Bowl game. (Northwestern won the game 20 to 14.) Murakowski fumbled the ball on the play, but the judges ruled he had possession as he crossed the goal line. The relevant rule read "A touchdown is made when the ball legally in possession of a player becomes dead, any part of it being on, above or behind the opponents' goal line." News photos showed the ball in midair and, as the Hammond *Times*

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[15] Lash file, *ibid.*

[16] Leahy file, *ibid.*

[17] Scott file, *ibid.* In Indianapolis the press dubbed Scott the largest legislator in the history of the General Assembly because he required a "special chair" at the 1949 session. Almost certainly he was the heaviest legislator during the twentieth century. Horace Heffren, at 380 pounds, needed a special chair at the 1883 session, as did Joseph Cunningham of Miami County at the 1899 session. Cunningham weighed 400 pounds when he died in 1906. Indianapolis *Times*, January 7, 1949; Cunningham file, Centennial History, ISL.

reported, "it looks as though Murakowski and the ball are still some inches shy of pay dirt." Sports writers concluded in the following days that "Murakowski's Bowl Touchdown Proves Second-Guessers Dream" and made the game "probably . . . the most controversial of the 35 Rose Bowl classics." For his part, Murakowski had no doubts:

> I was sure I was across. There was only a yard to go on the play and I was over. Somebody tackled me from behind and pulled me back. That's when I fumbled.

The play would make the future lawmaker part of the lore of American sport as the controversy indelibly marked in every football fan's mind the knowledge that a touchdown is scored if the ball is in a player's possession when it crosses the plane of the goal.[18] After graduation, Murakowski played one season as a professional with the Detroit Lions in the National Football League. Then he returned to Lake County and became active in the Democratic party. He worked as a clerk in the county assessor's office from 1954 to 1968 and was elected to the first of five terms in the House in 1964.[19]

While it was an advantage to be well-known either in party circles or in the community at large, to run for the General Assembly it was not necessary to know much about government. Robert A. Hoover, Sr. (House, Elkhart County, 1935-1939, 1943-1949) ran in 1934 "to get my name a little advertised" after fifteen years as a precinct committeeman. He recalled being bothered because he never had a course in civics nor had he read the federal or state constitutions. Only after he won the Republican primary in 1934 (by eighteen votes without spending a dime) did Hoover read both documents. When the editor of the Nappanee *Advance* promised a special campaign edition if the candidates would pay for it, Hoover sent in $25 and credited the paper with turning the county from Democratic to Republican. Once in Indianapolis, Hoover learned sufficiently about lawmaking to be reelected six times.[20]

Charles F. Fleming, a union organizer in Lake County, also knew little about government when he ran the first time. Fleming would remedy this weakness after his political career by earning master's degrees in sociology and political science and teaching government at North Central High School in Marion County for twelve years. In 1942, however, Fleming was not even aware of the difference in terms between the two houses despite the fact that his mother for years had been a Democratic precinct committeewoman and he had been a clerk in the House at the 1937 session. A fiery speaker, Fleming won labor's endorsement for a House seat. "Why didn't you take the Senate?" his mother asked when he told her the good news. "What's the difference?" asked Fleming. "Two years," replied his mother. Fleming called the union people back and said he'd rather run for the Senate. They agreed and Charles Francis Fleming launched

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[18] Hammond *Times*, January 3, 1949; Gary *Post-Tribune*, January 4, 1949; Indianapolis *Star*, January 3, 1949.

[19] Gary *Post-Tribune*, September 15, 1985; Murakowski file, Centennial History, ISL.

[20] Hoover file, Centennial History, ISL; Hoover oral history interview, 1st ms., 3, 8-9, Indiana Division, ISL.

a career that included two terms in the Senate (1943-1947), one term as Indiana secretary of state (1948-1950), and a stint as internal security director for the United States Petroleum Administration in Harry Truman's administration.[21]

For some people, running for office became an avocation; for some it became their main interest in life; for a few it became a way of life. Whether unknown, little-known, or well-known, among these last, these inveterate seekers of public office, was John S. Gonas of South Bend. By his own admission, "No man in history has run for and served in as many offices as Judge Gonas." According to his count, Gonas ran forty times for public office between 1930 and 1982, winning fourteen elections and losing twenty-six. His successes included terms as justice of the peace in 1935, in the Indiana House (1937) and Senate (1941-1947), as St. Joseph County Juvenile Court judge (1949-1958), and as state Appellate Court judge (1959-1967). Gonas' failures included a try for the United States House of Representatives in 1946, a bid for vice-president of the United States in 1960 ("but he didn't sway any delegates"), a run in the 1976 Democratic presidential primary in New Jersey, and his candidacy for United States senator in the Indiana Democratic primary of 1982.

Gonas' political career is a classic study of political ambition and compulsive office seeking. It was classic as well in its compendium of claims: "Just like President Lincoln, he was born in a log cabin" and "as a boy, he worked on a farm, in a factory, and in the coal mines." As a man Gonas stated on his vita that he was a lawyer, engineer, judge, legislator, football coach, professor, fraternalist, and author who "has served his community, his state, and the nation in almost every way made possible for one man." He had "the lowest delinquency rate in the state and nation" as Juvenile Court judge. During his tenure on the Indiana Appellate Court, Judge Gonas remembered being under consideration for a seat on the United States Supreme Court and on the International Court of Justice. "However, no vacancy occurred during that time." He was recognized as a distinguished alumnus by Tri-State University and selected as "Man of the Year" by the South Bend Service Club. Furthermore, governors of several states bestowed honorary commissions upon him. These last included Indiana's Sagamore of the Wabash, Kentucky Colonel, Admiral of the Great Navy of the State of Nebraska, and Chief Palichi (Great Leader) of the Chickasaw Nation, in Oklahoma.[22] While few candidates between 1930 and 1970 could, or would, claim as many distinctions as John S. Gonas, the handbills and press releases of most carried as many boasts as would seem credible and creditable to their electorate.

Contested Elections

There were no instances of a seat being contested successfully between 1930 and 1970. Indeed, only four contests were filed and, with one exception, the

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[21] Fleming oral history interview, 27-28, Indiana Division, ISL; Fleming file, Centennial History, ISL.

[22] Gonas file, Centennial History, ISL. Gonas really *was* born in a log cabin, in the lumber village of Cross Fork, Pennsylvania, in 1907. Since no evidence was found that anyone who served after 1947 was born in a log cabin, Gonas was probably the last Indiana legislator able to claim this distinction.

tradition of settling contests on a bipartisan basis, established between 1890 and 1930, continued. In 1941, with Republicans enjoying a majority of 31 to 19, Democratic Senators Blaz A. Lucas, Sr., and Thomas J. Conroy were seated from Lake County despite contests lodged by Clayton D. Root and David P. Stanton. Root and Stanton claimed vote fraud but the elections committee never filed a report on the case. At the same session, Indianapolis Democrat Joseph F. Sexton complained that he lost to four Republicans in Marion County (John W. Atherton, Albert J. Beveridge, Jr., Robert L. Brokenburr, and Harry O. Chamberlin) because candidates' names were listed alphabetically on the ballot. Sexton's claim was disallowed after an inquiry by the Senate elections committee, which unanimously recommended against him.[23] The exception occurred in 1951 when Republicans held the Senate 26 to 24 under a Democratic governor and lieutenant governor. Democrat Charles C. Killion demanded a recount in the race for the seat from Gibson and Pike counties after official returns showed Republican Edwin W. Beaman the winner by a vote of 11,090 to 11,026. Since a decision in Killion's favor would have meant a 25 to 25 party split, and Democratic organization of the Senate, Republicans seated Beaman and a resolution favoring Killion was assigned to the elections committee, which made no report.[24] The last contest of the era arose in the House in 1965 when Democrats enjoyed a 78 to 22 majority. Republican John F. Coppes of Elkhart was certified as the winner by 36 votes over Democrat Marguerite Miller in the official returns. The House voted 86 to 7 to seat Coppes.[25]

Speakers of the House through 1963

Lured by the power inherent in the office, all thirteen speakers during the era actively sought the speakership. It is the only reason for seeking the post. No other office in the legislature is more decisive in directing the course of state government. The speaker is the most important officer at each session because he exercises life and death control over legislation through his exclusive power to appoint committees and assign and call bills. He alone recognizes members in debate, makes rulings (which are seldom challenged), refers bills to committees, and determines the ayes and nays on voice votes. These are the powers that render the post worth holding. The speaker, the celebrity among the 150 lawmakers, is courted endlessly by colleagues, senators, governors, lobbyists, and the press. While the power is unequaled, so too is the responsibility. A speaker's reputation and career in politics depends upon how fairly and how judiciously he presides over his colleagues of the state House of Representatives.

Six Democrats and seven Republicans served as speakers during the era. Three of the Democrats—Walter D. Myers, Earl H. Crawford, and Edward H. Stein—presided in the 1930s, with Stein the only Democrat to serve twice (in 1935 and 1937). Robert H. Heller (1949), Birch E. Bayh, Jr. (1959), and Richard

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[23] *Senate Journal*, 1941, pp. 92, 1093.
[24] *Ibid.*, 1951, pp. 13-14.
[25] *House Journal*, 1965, pp. 95-96.

C. Bodine (1965) complete the roster of Democratic speakers. Republican James M. Knapp, speaker in 1929, held the post again in 1939 and 1941, thereby becoming the first person under the second Constitution to serve three terms as speaker. Republicans W. Hobart Creighton (1943, 1945, 1947) and Otis R. Bowen (1967, 1969, 1971-1972) also were elected speaker three times. George S. Diener (1955 and 1957) and Richard W. Guthrie (1961 and 1963) each served two terms. The other two Republicans, W. O. Hughes and James D. Allen, served as speaker in the 1951 and 1953 sessions respectively.

Twelve of the thirteen were born in Indiana. Three speakers came from Marion County, two from Wayne County, and one each came from Adams, Allen, Greene, Kosciusko, Marshall, St. Joseph, Vigo, and Washington. By occupation, there were five lawyers (a sixth, Bayh, was speaker while completing his law degree), three businessmen, and a physician, a farmer, a banker, and an insurance agent. All thirteen were Protestants, including four Methodists and three Presbyterians; seven were Freemasons. Many went on to other government service: Walter Myers was assistant United States postmaster general from 1940 to 1953; Birch Bayh served three terms in the United States Senate; and Otis Bowen became secretary of the United States Department of Health and Human Services in 1985. Seven speakers later served in state executive or administrative positions, including Bowen who was governor from 1973 to 1981. (See Appendix A, Table 1.)

Formally elected as the first order of business after members were sworn on opening day, without exception the thirteen men who served were the ones chosen at the majority party caucus after legislators arrived in Indianapolis. Traditionally, this caucus was held in the days immediately preceding the first Thursday in January, the opening day for each session. This tradition continued in 1931 when the Democratic caucus convened in the House chamber on Wednesday, January 7, and selected Walter D. Myers of Indianapolis.

Myers was unique during the era as the one speaker elected at the only session he served. He enjoyed a distinguished career as an undergraduate at Yale University, winning admission to Phi Beta Kappa and the recommendation of Professor William Graham Sumner, the famous laissez-faire economist and sociologist. Through Sumner's influence, Myers won an appointment as lecturer in economics at Indiana University and also taught in the law school. Active in the Democratic party as early as 1908 when he stumped the state for William Jennings Bryan, in 1920 Myers placed the name of Franklin D. Roosevelt in nomination for vice-president of the United States at the Democratic national convention. In 1925 Myers narrowly lost for mayor of Indianapolis to John L. Duvall, the Klan-supported Republican. Myers also became known in the 1920s as an outstanding civic leader when he joined Colonel Robert L. Moorhead and Dr. T. Victor Keene in bringing the American Legion to Indianapolis. "Myers, an orator of the first rank, carried the speaking part of the campaign" at the first Legion convention in Minneapolis in 1919 where the decision to name Indianapolis as the site for national headquarters was made.[26] In short, by 1931

[26] For Myers' contribution to the Legion, Indianapolis *News*, August 7, 1973.

Myers showed great potential for leadership in a party that had not controlled the Indiana House since 1915. He carried the first ballot at the caucus with only two dissenting votes "despite the usual antipathy of the outstate legislators against a Marion County man . . . ." (Since three of the thirteen speakers during the era were from Marion County, the conventional wisdom that outstate legislators were hostile to electing Marion County men to positions of leadership was obviously untrue.) After the session, when Myers ran in the 1932 primary for nomination to the United States Senate, the Republican Indianapolis *News* stated that "in many quarters [he] has been spoken of as one of the ablest presiding officers the house ever had."[27]

After the Democratic landslide in 1932, the timetable for deciding the speakership moved to immediately after the November election. Governor-elect Paul V. McNutt presided at a party conference at French Lick from November 13 to 15 where leadership positions in both houses for the 1933 session were decided. At Democratic caucuses in Indianapolis in mid-December, the McNutt slate went through "in toto" and Earl H. Crawford, a Connersville banker who lived in Wayne County, became speaker. Crawford, who had served in the House in 1913 and 1931 and who would guide McNutt's program through the 1933 session, was described as a man with "a tremendous voice and when he becomes thoroughly aroused and turns it loose, everyone in the General Assembly knows someone is talking."[28] In November, 1934, Democrats met again at French Lick to discuss patronage and legislative problems. The Indianapolis *Times* noted that Governor McNutt was expected to make "final decisions on all matters," and he designated Edward H. Stein of Bloomfield for speaker in 1935. Stein, the majority leader in 1933, was the unanimous choice of the Democratic caucus the next month and also in 1937.[29]

James M. Knapp of Hagerstown served longer in the House than any other speaker in Indiana history. He was the representative from Wayne County at thirteen of fourteen sessions between 1919 and 1945, missing only the 1933 session. Knapp was elected to his first term as speaker in 1929. In 1939 he was the choice of the Republican caucus for a second term when the party recaptured the House. He was elected to a third stint without opposition in 1941. As speaker, Knapp always wore a black suit and white shirt and was "very straitlaced," as befitted a man in the cemetery monument business. Belying his funereal appearance, Knapp displayed a droll wit. While presiding in 1941, as Democrats orated in favor of a pension plan for the elderly, a woman in the gallery dropped

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[27] For Myers' election, Indianapolis *Star*, January 8, 1931; for biographical information and quotations, Indianapolis *News*, April 6, 1932. Myers broke with Paul V. McNutt over the Senate nomination and was never active in state politics again. In 1947 Myers published *The "Guv": A Tale of Midwest Law and Politics*, in which McNutt is vilified as "Mack Boob."

[28] For the French Lick conference, Indianapolis *Times*, November 10, 15, 1932; for the formality of Crawford's election, *ibid.*, December 16, 1932; for description as speaker, Crawford file, Centennial History, ISL. Crawford became McNutt's executive secretary in 1935, and held state administrative appointments in every Democratic administration until his death in 1947.

[29] Indianapolis *Times*, November 10, December 8, 1934.

her purse into the press area occupied by a dozen reporters seated on a temporary platform. Knapp rapped for order and intoned: "Ma'am, of all the places to drop your purse and expect to get it back, the last place would be in the press box." The speaker never cracked a smile amidst the laughter as debate continued.[30]

The first heated contest for speaker during the era occurred in November, 1942, and involved Knapp. He had steered the anti-Schricker ripper bills of 1941 through the House. Knapp announced his candidacy for a fourth term as speaker immediately after the general election. He was supported by former state chairman Arch N. Bobbitt and Lieutenant Governor Charles M. Dawson. W. Hobart Creighton, a wealthy poultry farmer from Kosciusko County, was the choice of an anti-Bobbitt faction led by future Governor Ralph F. Gates. Gates presided at the Republican caucus on November 24 when Creighton defeated Knapp 53 to 24 for speaker.[31] Creighton, who had served in the House since 1933, was chairman of the 1944 state convention that nominated Gates for governor. After Gates was elected Creighton was unopposed for second and third terms as speaker in 1945 and 1947. A Gates loyalist during his speakerships, Creighton was upset by Henry F. Schricker in the 1948 race for governor. Robert H. Heller, an insurance agent from Adams County, was elected speaker without a contest after Democrats unexpectedly won the House in the same election. Heller, a House member since 1939 and minority leader during the 1947 session, was the unanimous choice in a caucus at the Lincoln Hotel on November 18, 1948.[32]

W. O. Hughes, a lawyer from Fort Wayne, won a spirited contest in 1951 after months of effort. A representative since 1939, Hughes started his campaign well before the 1950 general election. He had served previously as both majority and minority leader for his party and defeated Laurence D. Baker of Kendallville 38 to 26 on the second ballot at a Republican caucus in early December.[33] Though never again speaker, Hughes was reelected to three additional terms in the House. He became best known as Allen County Circuit Court judge from 1961 to 1971 and as author of *Indiana Pattern Jury Instructions*, published in 1966.

The most bitter fight for speaker during the era occurred when Hughes sought a second term in 1953. He was opposed by James D. Allen, a 36-year-old attorney from Salem. The caucus was scheduled for November 14. Instead, seventy-two of the eighty-one House Republicans gathered at the Columbia Club on November 13 in a "rump" meeting of forces favorable to Governor-elect George N. Craig and elected Allen by a vote of 47 to 23.[34] There was no doubt that Allen was Craig's choice for the post but he fell out of favor with the governor after failing to steer the Craig program past a recalcitrant Republican majority at the subsequent session. In 1954 Craig endorsed George S. Diener, an Indianapolis advertising executive, and at a caucus on November 24 Diener

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[30] Charles T. Miser oral history interview, 1st ms., 34-36, Indiana Division, ISL.

[31] Indianapolis *News*, November 13, 19, 24, 1942; Indianapolis *Times*, November 25, 1942.

[32] Indianapolis *Star*, November 6, 16, 19, 1948.

[33] *Ibid.*, December 7, 1950.

[34] *Ibid.*, November 14, 1952.

was elected with 36 votes to 14 for Allen and 12 for Hughes.[35] Diener won a second term in 1957 without opposition.

While there were no serious challenges to the speaker's wide powers during the era, every presiding officer was the target of charges that he ran the House as a "dictator," "tyrant," or "usurper of the popular will." Sometimes the attack came from newspapers supporting a pet reform that an unfeeling speaker quashed. Sometimes the source was a disgruntled lobbyist. More often, attacks against the speaker were launched as official protests spread in the *House Journal* by a member of the minority party. When S. Hugh Dillin of Petersburg submitted an eloquent protest against James M. Knapp in 1941, he spoke for the frustrated minorities against every speaker in every era.

Dillin was upset by "the unwarranted and arbitrary action" of Knapp in not handing down for second reading a Senate measure favored by the Democratic party. The bill, S.B. 24, which liberalized the provisions of the workmen's compensation law, had cleared the Republican Senate by a 36 to 7 vote. According to Dillin the bill was "of general interest and benefit to all working people" and Knapp "grossly abused his power" by preventing House action. Not only that. The speaker had castigated the measure with "one of his typical diatribes from the rostrum." Knapp, in setting his independent judgment against that of the thirty-six senators who voted for the bill and the members of the House labor committee who released it, had deprived ninety-nine members of the House of the chance to exercise their judgment on the bill. To Dillin, the speaker had no right arbitrarily to withhold a bill from consideration by the full House; the speaker had no right to make speeches for or against any bill from the rostrum. If the speaker's "extraordinary" position were carried to its logical conclusion no bill against which there was opposition would ever be handed down for consideration by the full House, a "proposition . . . absurd on its face." Knapp nonetheless prevailed in 1941 as have all speakers at all times in all such conflicts. The House never voted on S.B. 24.[36]

George S. Diener has left the most complete account of the speaker's office in an oral history interview at the Indiana State Library.[37] Diener owned a small advertising agency in Indianapolis when he entered politics in 1950 and decided to run for state representative. He was elected and received his first glimpse of the inside of the State House two days before the session opened when he stopped by to find out where the House met. In 1952 Diener helped organize a local "Draft Eisenhower" movement and also won reelection. In 1953 he led the Marion County Republican delegation in the House and, shortly after adjournment, he decided to seek the speakership at the next session. During the summer

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[35] *Ibid.*, November 25, 1954.

[36] *Senate Journal*, 1941, pp. 670-71; *House Journal*, 1941, pp. 1358-59. Dillin saw the powers of leadership differently in 1961 when he was president *pro tempore* of the Senate. He gained his greatest distinction when, as judge of the U.S. District Court for the Southern District of Indiana, he presided over the desegregation of Marion County schools in the 1970s.

[37] Unless otherwise noted, the account of Diener's speakership is based upon his oral history interview, Indiana Division, ISL.

of 1954 he gathered a group of advisors, half of whom came from his home county and half from around the state. These advisors pushed Diener for the post openly while the candidate worked behind the scenes. Being from Indianapolis was "the toughest obstacle to overcome" and his campaign brochure emphasized the rural areas of Marion County. Diener's careful preparations and vigorous pursuit of the office—he met every Republican member of the House before the pre-session caucus and won the endorsement of Governor Craig—paid dividends. At the caucus he won handily.

Immediately after the caucus on November 2 Diener sent out preference cards for committee assignments. Then he mulled over the responses and listened to those who spoke of their preferences. "I would weigh—as would be natural—whether they supported me for speaker." Most of those who had supported him "got the committees that they wanted, which is pure and simple politics." Diener also evaluated the individual and the subject matter to be covered by a particular committee. "I am not for . . . liberalizing any of the alcoholic beverage laws nor have I been a proponent of gambling," he noted. So it was "natural" that Diener did not put someone on the public policy committee (where such bills were assigned) "who is inclined in that direction."

Diener used Judiciary B as his pet committee, as observers soon learned. To it "I would assign the bills which I wanted to make sure would either come out or would not see the light of day." The chairman of Judiciary B agreed never to support a "blast motion"—a move to get a bill to the floor over the speaker's objection. Of course, since the speaker named all the committees and all the chairmen, Diener had other committees that were "very reliable." In the rare event when there was disagreement with a chairman, Diener just stopped assigning bills to that committee. "I suppose . . . it sounds as though I was trying to run a one man show or be a dictator but that was certainly not the case at all." Rather, as Diener saw it, it was a case that since he had the responsibility, if the session was a failure he would be blamed. Diener freely admitted that

> The Speaker can control the destiny of the bill. And to a great extent he controls the action of the bill in the Senate too by holding up certain Senator's bills when they come over to the House. The speaker has a terrifically powerful position. Some have said that it's just too powerful for one person . . . . I felt that was more of a responsibility than power and what came out of the session to a great extent reflected on my character and my reputation and that's the way I was looking at it.

Diener viewed the speakership as a full-time task. Although it took a lot of time early in the session, he attended a meeting of nearly every committee "once just to get a flavor of how the chairman was handling" the job. "I don't recall it had ever been done, at least in the two previous sessions I was in . . . ." He also tried to learn as much as he could about every bill. His approach made for long days and heavy burdens. "Many a time I would be there until two or three o'clock in the morning. A few times I slept in the chair down there [the speaker's chair in the House chamber]." Since he was determined to devote his time "to being Speaker, period," he avoided the social and hospitality side of legislative service. "Not that I . . . was above that . . . but I knew I had to

wake up with a clear head the next morning and I couldn't do that if I'd been out partying the night before." Whether due to his clear view of the speaker's power, his hard work and abstemious practice, or his good fortune, it was conceded that the sessions of 1955 and 1957 functioned smoothly.

Diener felt his greatest accomplishment as speaker was the Right-to-Work Law of 1957, a bill that became law without the signature of Governor Harold W. Handley. The act was one of the most controversial of the 1950s and was bitterly opposed by organized labor because, in forbidding employers in Indiana to base hiring upon membership or non-membership in a labor union, it outlawed the "closed shop." Diener wanted the bill, which was "tightly locked" in the labor committee, passed. By his own admission Diener "didn't hold back any punches." His announcement from the chair that he supported the bill and his "trip-hammer pressure" were "strong enough to blast it out" of committee. It passed with three votes to spare, 54-42. After passing the House the bill faced almost certain death at the hands of the Senate labor committee, chaired by Roy Conrad, but it never was sent there. Instead, Senate sponsor D. Russell Bontrager depended upon the "fast gavel" of Lieutenant Governor Crawford F. Parker to bring the bill before the full Senate where it passed 27-23. Columnist Irving Leibowitz of the Indianapolis *Times* concluded that the right-to-work question provided the "most dramatic" issue of the session.[38]

Deiner recalled that his least significant accomplishment, adopting a new state flower, also occurred at the 1957 session. The Senate passed a measure making the dogwood tree (*cynoxylon floridum*) the state tree and its blossom the state flower. Diener, thinking the matter frivolous, intended to kill it in the House. But the House committee on public policy amended the bill to keep the tulip tree (*liriodendron tulipifera*) the state tree as per a 1923 statute, and to substitute the peony (Paeonia) for the zinnia as the state flower. Laurence D. Baker, a commercial peony grower from Noble County, inserted the amendment after telling Diener "this is just a joke." The speaker, on the understanding it would fail, handed the bill down. Instead, the bill passed 85 to 1 "and that's how the peony became the state flower."[39]

Diener's greatest regret was that steps were not taken to abolish the Alcoholic Beverage Commission while he was speaker. "It's legal to sell beer, wine, and whiskey in the State of Indiana," he noted, "so why have all the policing authority, the handing out of wholesale permits and so forth which are always subject to question[?]" Every legislature spent far too much time on alcohol bills and, since the members in the sessions of the mid-1950s were "strongly free enterprise," action to disentangle the beverage code should have been possible. "Frankly it's too bad . . . we just didn't abolish the ABC," Diener concluded.

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[38] *House Journal*, 1957, pp. 645-46; *Senate Journal*, 1957, pp. 607, 609, 717; *Laws*, 1957, pp. 31-34; Indianapolis *Times*, March 10, 1957. The law was believed responsible for the Republican defeat in the 1958 election. It was repealed during the 1960s.

[39] *Laws*, 1923, p. 105; *ibid.*, 1957, pp. 660-61; *House Journal*, 1957, pp. 972, 1057-58. Baker was serving the last of seven consecutive terms in 1957 and owned Baker Peony Farms in Kendallville, Bloomington, and Corydon.

In his opinion, no action was taken because "We were really so involved in the things of immediate nature . . . ." Diener's observation might be expressed as a maxim of the behavior of legislatures: "the tyranny of things of an immediate nature." Such a law explains why entrenched bureaucracies like the Alcoholic Beverage Commission or entrenched patronage like the auto license branch system, prove almost impossible to reform. Such a law also explains why, even with the support of an aroused public, great change is rare in the absence of the political equivalent of an earthquake.

Birch E. Bayh, Jr., a Democrat from Shirkieville, and Richard W. Guthrie, a Republican from Indianapolis, were the last two speakers before rural domination of the House was broken by reapportionment. Bayh entered the House in 1955, was minority leader in 1957, and was unopposed for the speakership at the pre-session Democratic caucus in 1959. In 1963 he became the only speaker of the period to advance to the United States Senate. Guthrie served in the House during Diener's two terms as speaker, but lost for reelection in the Democratic sweep of 1958. He won back the seat in 1960 and announced on November 11 that he would seek the speakership. A three-way race developed between Guthrie, Ralph H. Waltz of Hagerstown, and former Speaker James D. Allen. Allen dropped out after receiving only nine votes on the fourth ballot and Guthrie defeated Waltz 33 to 29 on the fifth ballot. The press viewed Guthrie's election as a surprise because another Indianapolis man, C. Wendell Martin, was elected minority leader by the Republican Senate caucus. Such a tandem—the two most important legislative leadership roles given to the same county—had never occurred in the twentieth century. Guthrie, reelected in 1963 without significant opposition, is remembered as the speaker who worked best during the era with a governor of the opposite party.[40]

Speakers of the House, 1965 to 1969: A New Beginning and Unigov

The General Assembly entered a new era in 1965 as urban Indiana for the first time began to enjoy its proper representation. The most immediate result was a structural reformation of the research and bill-drafting arm of the legislature that made it both more efficient and more responsive to modern problems of government. Speaker George S. Diener regarded the lack of an adequate support staff as the greatest weakness of the legislature in the 1950s. He recalled that the Legislative Reference Bureau consisted only of about five full-time employees: a director, appointed by the governor, and assisted by two lawyers, a secretary, and a clerk-typist. During sessions this staff was augmented by patronage employees from both parties. Between sessions, however, the staff was simply too small to make the detailed, searching studies necessary if legislators were to cope with the increasing complexities of state government. In 1967 the General Assembly

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[40] For Bayh's election and Guthrie's role as speaker, Welsh, *View from the State House*, 14; for Guthrie's first election, Indianapolis *Times*, November 11, 13, 29, 1960.

replaced the old Reference Bureau with a new Legislative Services Agency. Democrat Richard C. Bodine of Mishawaka and Republican Otis R. Bowen of Bremen, the last two speakers of the era, played leading roles in the change. Bodine, whose career spanned two decades in the House, was elected speaker at his second session in 1965 after one session as minority leader. Bowen became speaker in 1967 as the culmination of a legislative career that began in 1957 and ended with his election as governor in 1972.

Bodine, comparing the General Assembly of 1981 with those of the early 1960s, thought that "it's a better Legislature than it was then. I think the very nature of the support they have makes it better." Bodine recalled that at his first committee meeting in 1963 he never had a chance to see a bill: "The chairman of the committee threw one copy of the bill out on the table, and said 'Let's talk about it.' That's the day I started to try and get some changes made, that's the day I started raising hell." Bodine helped bring the changes about as speaker in 1965 and minority leader in 1967. In 1965 he successfully started the remodeling of the House to improve its appearance, comfort, and efficiency for members; in 1967, along with Charles B. Howard, he cosponsored legislation sought by Republican Speaker Bowen to establish the new Legislative Services Agency.[41]

Bowen served four terms before becoming speaker. Edward Ziegner, the political editor of the Indianapolis *News* who covered the legislature from 1947 through the 1980s, recalled that Bowen "was so quiet in his first session in 1957 that one hardly knew he was there."[42] But Bowen learned rapidly and, when this "country doctor" became speaker, he was ready to lead. "I shall be firm and decisive, yet shall never forget to be fair," Bowen pledged routinely as had countless speakers before him. Bowen, like Bodine, had also grasped the connection between a state government "gigantic and unbelievably complex" and a General Assembly "better organized, better equipped and better staffed." He envisaged a change whereby the legislature might conduct its own research in all fields of state government and free itself from reliance on the administrative branch and lobbying groups for information. Thus Bowen's priority was corrective action "so that in future sessions the legislative branch . . . will be a more efficient, effective and equal arm of government."[43] Under his leadership the Legislative Council and new Legislative Services Agency were established by law with little or no opposition.

The statute created a Legislative Council composed of eight members from each house to be "the service and administrative agency" of the General Assembly. The sixteen members would include the majority and minority leadership, caucus chairmen, three members each appointed by the president *pro tempore* and the speaker, and one member each appointed by the minority leaders. The council

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[41] "Bodine Helps Things Run," Indianapolis *News*, February 7, 1981. Bodine served until 1982 as one of "a handful of people in both parties . . . who really make [the legislature] run . . . ."

[42] "Frosh Can Look Ahead," *ibid.*, January 26, 1985.

[43] *Ibid.*, January 5, 1967.

would authorize studies, recommend legislation, coordinate interim committees, and provide bill drafting and research services. The council also was to employ and supervise the full-time Legislative Services Agency and the staff necessary to accomplish these things, including an executive director. Finally, the law gave the legislature its own accounting system at budget time. Lawmakers would no longer be forced to accept figures from the state Budget Agency, which was under the direct control of the governor; they would have a separate yardstick.[44]

In 1969 Bowen found himself in the midst of the greatest controversy involving a speaker during the era. The controversy arose because of his stance on a proposal to merge city and county government in Indianapolis and Marion County. The bill, known as the Unigov (Unified Government) Act, was the most important measure relating to Indianapolis since the General Assembly approved the site for a permanent state capital in 1821. Lawmakers considered the bill because historically, in the United States, counties and cities were creatures of the state legislature. Iowa Supreme Court Judge John F. Dillon, an authority on the powers of municipalities, enunciated in 1868 a general rule later adopted by all states: a municipal corporation could exercise only those powers expressly granted to it by state law, those necessarily implied from the granted powers, and those essential for the purpose of the organization. All doubts, Dillon added, were to be resolved in favor of the state against the local unit.[45] Dillon's rule underscored the subordinate relationship of local government to state government; the former was a creature of the state and had only those powers permitted by state constitutions and laws. In Indiana, the General Assembly from its beginning established counties and towns, designated the site of the county seat, and spelled out the powers of government for each.

For at least a quarter century prior to 1969, lawmakers had wrestled with proposals to include all of Marion County in the corporate metropolitan area. As early as 1943 a bill to place the supervision of the Indianapolis City Hospital under a five man bipartisan board was seen by the press as "the first step toward including all Marion County in the corporate metropolitan area . . . ." Republican Representative Charles P. Ehlers, chairman of the House committee on the affairs of Indianapolis, wanted to amend the bill to convert the city hospital to a county general hospital. "There has been more or less chiseling, anyway," Ehlers stated, "by persons residing outside the city who have arranged to be sent to the hospital from an Indianapolis address." The bill passed but without Ehlers' countywide amendment.[46] Twenty years later Democratic Senator Nelson G. Grills also supported the idea of a city-county merger. "A metropolitan system of government" could be achieved in Marion County, said Grills, "with a minimum of effort,

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[44] The act passed the Republican House 93 to 0, the Democratic Senate 32 to 10. *House Journal*, 1967, p. 196; *Senate Journal*, 1967, p. 824; *Laws*, 1967, pp. 93-99.

[45] Jack C. Plano and Milton Greenberg (eds.), *The American Political Dictionary* (New York, 1972), 421; 24 Iowa 455 (1868).

[46] *Laws*, 1943, pp. 412-19; "County-Wide City Being Considered," Indianapolis *Star*, January 13, 1943.

cost and without loss of democratic government."[47] Since Democrats controlled the Indianapolis City Council and Republicans controlled the state House of Representatives, however, Grills failed to get the necessary legislation. In the event, the merger of city and county government required one party's dominance on the various levels of government. Political power in Indianapolis, in Marion County, in the General Assembly, and in the governor's office was always split between the Democratic and Republican parties. Merger had to wait until the same party controlled all four and the four were in agreement on the partisan benefits to be gained.

In fact, only six years after Grills' effort, in 1967 the first step toward Unigov was taken when the Marion County Republican party, led by Chairman L. Keith Bulen, elected Richard Lugar mayor with a Republican majority on the Indianapolis City Council. For only the second time in forty years Republicans controlled the city government. Lugar, elected by just over 8,000 votes, immediately set out to merge the city with the suburbs. The motivation and the rationale for merger were a blend of idealism and political cunning, often an unbeatable combination. On the one hand, the mayor genuinely believed a merger would make municipal government more economic and more responsive to modern urban needs. On the other hand, Republicans outnumbered Democrats two to one in the suburbs, a margin that would ensure Lugar's reelection in 1971.

The next steps were taken in 1968. In the primary election that year Marion County Republicans selected only Bulen-slated candidates for the legislature. They also elected 346 delegates to the state convention; the vast majority of these delegates were pledged to support their county chairman's recommendations. At the convention Bulen swung 294 votes to Edgar D. Whitcomb for governor, and Whitcomb defeated Speaker of the House Otis R. Bowen for the nomination. When Whitcomb won election in November a Republican with a tremendous political obligation to Marion County sat in the governor's office. Republicans also elected lopsided majorities to the legislature—majorities that could by themselves meet the quorum requirements in both houses of two thirds present and voting. The entire Marion County delegation of eight senators and fifteen representatives in 1969 would be Bulen people. Unigov was now possible because, as Mayor Lugar noted, "To be effective, a county had best have political muscle in the state legislature, [and] with the governor."[48]

Shortly after the 1968 election the thirty-five Republican state senators and seventy-three state representatives met to organize their respective houses. In each chamber a majority of the membership on the affairs of Marion County committee was from Marion County. Senator Lawrence M. Borst, Jr., and Representative E. Henry Lamkin, Jr., both from Indianapolis, were appointed chairmen of these committees. According to Borst, who organized the writing effort and introduced the bill that became law, "The Senate was considered as the toughest of the

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[47] "Grills Submits City-County Bill," Indianapolis *Star*, February 28, 1960.

[48] William Matthew Schreiber, *Indianapolis-Marion County Consolidation: How Did It All Happen?* ([Indianapolis], 1974), 6.

two houses to pass Unigov. After a time, the votes were there." The votes were not there on January 21, however, when Borst's first bill to establish Indianapolis metropolitan government was introduced. Opposition was immediate, much of it "intense and hostile" according to William Schreiber. The opposition was intense enough by February 4 that Borst presented a second bill. The first one, he recalled later, "Had a lot of typos and such, so it was decided to reintroduce rather than amend."[49]

The committees on the affairs of Marion County from both houses held a joint public meeting on February 7 to consider the second bill. A parade of hostile witnesses revealed that opponents did not share a common perspective. With the opposition fragmented, and with Borst knowing he had the votes, the bill was called down the following Saturday morning and passed 28 (25 Republicans, 3 Democrats) to 16 (10 Democrats, 6 Republicans).[50] Only Otis R. Bowen, exercising the extraordinary powers of speaker of the Indiana House, stood as a potential obstacle between the Bulen-Lugar juggernaut and its plans for the capital city.

Democrats, unwilling to contemplate city life as a minority in a sea of suburban Republicans, had a forlorn hope to defeat the bill in the House. As a minority of only twenty-seven members, their one chance was to attach an amendment making Unigov subject to an advisory referendum by Marion County voters. Speaker Bowen, who had said that he would support unification only if it had popular support, was seen as a possible ally. To blunt this strategy Lugar released a "scientific poll" showing 63 per cent of Marion County residents in favor of the measure. This contrasted sharply with a poll ordered by Democrats showing 32 per cent in favor, 46 per cent opposed, and 22 per cent with no opinion. Of the two polls, it was believed that the latter reflected opinion more accurately. Through an intermediary, Democrats shared their results with the Republican speaker. On February 27, when Bowen handed Unigov down on second reading, Henry Lamkin succeeded in defeating all debilitating amendments by 2 to 1 majorities. Unigov awaited only final House action.[51]

On February 28, Speaker Bowen stunned Unigov proponents by refusing to hand down the measure for passage. He said he wanted "more time" to consider the bill and wanted to be certain that at least 51 per cent of the people in Marion County favored the proposal. At a hurriedly called press conference that afternoon Lugar denounced Bowen for "sitting on the bill." The mayor,

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[49] Borst to author, April 30, 1985; Schreiber, *Indianapolis-Marion County Consolidation*, 12.

[50] *Senate Journal*, 1969, p. 1240. For the route of the bill through the Senate, Schreiber, *Indianapolis-Marion County Consolidation*, 11-12. Senator Charles Bosma of Marion County departed before the roll call rather than vote yes or no. Senator Joan Gubbins thereby became the only Marion County Republican to break the county's solidarity. She hired former Democratic Senator Nelson G. Grills as her attorney and advisor on Unigov, opposed the measure, and voted against it. Indianapolis *News*, January 31, 1969. Although Grills had supported consolidated city-county government in the early 1960s, he was opposed to the 1969 measure because he saw that it would give Republicans control of Indianapolis city government.

[51] Schreiber, *Indianapolis-Marion County Consolidation*, 14.

who had never served in the General Assembly, resurrected almost every argument ever used against "tyrannical" and "dictatorial" speakers of the House. At the end of the conference Lugar gave out Bowen's unlisted phone number and encouraged county residents to call and tell Bowen what they thought. Within twenty-four hours Bowen, enraged by Lugar's "indiscretion," said he received some 1,200 calls of which 1,086 callers had been against the measure, only 102 for it. Lugar, realizing his mistake, sent a handwritten apology. Bowen, unmoved, still refused to hand down S.B. 543.[52]

March 5 was the last day bills could pass the House. On March 4 Henry Lamkin said there was still a "50-50 chance" for Unigov. At 9:00 a.m. on March 5, Bowen said he would "hand down the so-called 'Unigov' bill as it now stands." If a majority of county residents did not favor the measure, Bowen added, "the remedy is at the next election."[53] The roll call showed 66 in favor, 29 opposed. Unigov needed only the formality of Governor Whitcomb's signature. This was forthcoming at a special ceremony in his office on March 13, with Lugar and members of the Indianapolis City Council present.[54]

Former Marion County Democratic Chairman William M. Schreiber helped organize the effort to defeat Unigov. A few years later he surmised that there were three possible reasons why Bowen withheld the measure at first: one, Bowen "really believed such legislation should enjoy clear popular support"; two, he wanted leverage against Marion County representatives on tax and finance matters that were still pending; and three, Bowen was penalizing L. Keith Bulen's "organization for denying him the gubernatorial nomination in June of the previous year." Schreiber concluded that Bowen might have acted for a combination of these reasons.[55] A fourth possibility is that a man from Bremen in Marshall County might not relish the enhancement of the influence wielded by Indianapolis in the affairs of the state, or an enhancement of the influence of Marion County Republicans in the affairs of the party. Unigov could be perceived as leading to both. Whatever Bowen's motivation, his action was the most dramatic display of a speaker's power during the era and one of the most dramatic in the history of the House. The fact remains that in the end Bowen handed down for final

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[52] For the Bowen-Lugar contretemps, see Indianapolis *Star*, March 2, 4, 5, 1969.

[53] Indianapolis *News*, March 5, 1969.

[54] *House Journal*, 1969, p. 1682; *Laws*, 1969, pp. 357-448.

[55] Schreiber, *Indianapolis-Marion County Consolidation*, 17. Proponents and opponents of Unigov were not aligned along partisan or racial lines. Some inner city blacks and Democrats supported the measure while many white Republican suburbanites vigorously opposed it. To ensure passage and to blunt opposition, therefore, the legislation provided for a limited merger of city and county government. The police and fire departments in the old Indianapolis city limits were kept distinct from the police and fire departments in the suburbs, and the Indianapolis public school system was kept separate from the school systems of the suburban townships. A good scholarly treatment of the Indianapolis-Marion County merger is York Willbern, "Unigov: Local Government Reorganization in Indianapolis," in Kent Mathewson (ed.), *The Regionalist Papers* (Detroit, Mich., 1974), 207-29. A more recent assessment, which appeared too late to be consulted for this study, is C. James Owen and York Wilbern, *Governing Metropolitan Indianapolis: The Politics of Unigov* (Berkeley, Calif., 1985).

passage "An Act concerning reorganization of government in counties containing a city of the first class." He thereby allowed Indianapolis city government to expand its jurisdiction from eighty-two to 402 square miles, from approximately 480,000 to 792,000 citizens, and from about 293,000 to 406,000 registered voters. Referring to the last of these increases, Bulen exulted: "It's my greatest coup of all time, moving out there and taking in 85,000 Republicans."[56] In 1972 while the Bulen organization did not support Bowen's nomination for governor at the state convention, neither did it vigorously oppose the physician from Bremen. In the general election Bulen's people supported the only speaker during the era who advanced to the office of governor.

Senate Leadership

Under the state Constitution the only real function of the lieutenant governor in the legislative process is to preside over the Senate. In practice, until 1929, that was his sole function. The lieutenant governor had nothing to do when the General Assembly was not in session. In the best of circumstances, when he belonged to the same party as the Senate majority, he also had some voice in committee assignments. He was denied that voice and his role as president of the Senate when his party was in the minority. In that event the power of presiding officer was exercised by the president *pro tempore*, who also had the exclusive voice in naming committees. (See Appendix A, Table 2.) Edgar D. Bush (1929-1933) became the first full-time lieutenant governor when he established a year-round office in the State House with the approval of Governor Harry G. Leslie. The office began to assume its modern importance in 1933 when Governor McNutt placed the Department of Commerce under the lieutenant governor's jurisdiction as part of the reorganization of state government. After McNutt, the lieutenant governor's role as head of the Department of Commerce became the primary function of the office. In this capacity, most lieutenant governors since 1933 served as spokesmen for the executive branch in promoting business development and tourism in the state. Throughout the era their role as presidents of the Senate remained essentially ceremonial.

Twelve men served as lieutenant governor between 1930 and 1970. Democrats M. Clifford Townsend (1933-1937) and Henry F. Schricker (1937-1941) and Republican Harold W. Handley (1953-1957) used the office as a steppingstone to the governorship. Republicans Crawford F. Parker (1957-1961) and Richard O. Ristine (1961-1965) and Democrat Robert L. Rock (1965-1969) ran for governor while in office but were defeated. Ristine in 1961 and Democrat John A. Watkins (1949-1953) served when the opposition controlled the Senate. Richard T. James (1945-1948, 1949) and Rue J. Alexander (1948) were the only two who did not serve a full term. James resigned on April 1, 1948, after presiding at the 1945 and 1947 sessions. Alexander, appointed by Governor Ralph F. Gates to replace James, died on January 2, 1949, and James was appointed until Watkins, elected

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[56] Schreiber, *Indianapolis-Marion County Consolidation*, Foreword, v.

lieutenant governor in 1948, took office eight days later. Republicans Charles M. Dawson (1941-1945) and Ristine in 1963 were more powerful than most lieutenant governors because they held office while a Democrat was governor and Republicans controlled the Senate. Republican Richard E. Folz (1969-1973), like most of his counterparts whose party controlled the governorship and the Senate, had a voice in committee assignments at the session of 1969—a voice which the office lost in 1971 when the Senate rules were changed to give the president *pro tempore* exclusive authority in naming committees.[57]

The duties of lieutenant governor are listed briefly in Article 5, section 21, of the state Constitution. Although the section concludes that "whenever the Senate shall be equally divided, he shall give the casting vote," no lieutenant governor between 1851 and 1973 ever voted on passage of a bill because it lacked a constitutional majority of 26 ayes. The evidence is conclusive that the Senate never divided 25-25 on passage of a bill between 1851 and 1915 and no instance of a 25-25 split on passage of a bill was found between 1917 and 1969. Lieutenant governors did vote as a matter of course, however, if the Senate divided equally on such questions as indefinite postponement of a bill or concurrence in reports of standing or special committees.[58] Only once before the 1970s was the casting vote of a lieutenant governor decisive on a crucial issue: At the end of a special session in 1963 a 24 to 24 tie on concurrence with a conference committee report was broken enabling the Senate to approve a sales tax. The lieutenant governor thereby broke an impasse on fiscal policy that had kept the legislature in session for 101 consecutive days and brought the state to the edge of insolvency. This was without question the most famous casting vote by a lieutenant governor in the state's history.[59]

Richard O. Ristine was a senator from Montgomery County between 1951 and 1960, a tenure which gave him more experience in the Senate than any other lieutenant governor during the era. As a member of the influential state Budget Committee from 1954 to 1958, Ristine was more knowledgeable than most leg-

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[57] See below, pp. 641-42.

[58] Charles Kettleborough, *Constitution Making in Indiana* (3 vols., Indianapolis, 1916, 1930), 1:333; "Tie-Votes in the Senate of the State of Indiana," compiled by the Indiana Bureau of Legislative Information, December, 1916, typescript in Indiana Division, ISL. This compilation lists the propositions on which lieutenant governors voted between 1851 and 1915 and tables include page references to the *Journals*.

[59] According to Robert Luce, exaggerated weight attaches to the casting vote—*i.e.*, the vote which breaks a tie: "Of course what we think of always as the deciding vote really counts for no more than any other vote on the same side. Yet it is the habit to bestow on the man who casts it more responsibility than accrues to all his co-voters put together. The last straw that turns the scale gets the praise or blame. For the most part this is unreasonable, and yet something is to be said in palliation or excuse for our habit. The last man to vote is the only man who knows that the issue depends on his judgment. Inevitably this demands of him more courage. To the onlookers, the situation brings the excitement of crisis. Doubts, hopes, and fears are to be resolved by the action of a single man. Fate hangs in the balance. In an instant the dramatic element has become supreme." Luce concluded that although illogical, it is wholly natural for people to attribute the decision to the casting vote. Robert Luce, *Legislative Procedure: Parliamentary Practices and the Course of Business in the Framing of Statutes* (Boston and New York, 1922), 450-51.

islators in matters of taxation and revenue. Nonetheless, the odds against Ristine casting a decisive vote on any issue in 1963, let alone on a controversial tax increase, were overwhelming. First, he was the leading candidate for his party's gubernatorial nomination in 1964 and candidates for governor instinctively avoid being identified with a tax increase. Second, no lieutenant governor had ever voted to provide a constitutional majority of 26 on passage of a bill and Republicans held a 26 to 24 edge after the 1962 election. Had the split remained at 26 to 24, Ristine would never have cast his celebrated vote. But at the crucial moment, the death of a Republican and the sudden illness of a Democrat reduced each party by one. Even then Ristine would not have voted except that under Senate rules lieutenant governors could and routinely did vote to adopt conference committee reports.

Both parties knew well before the session that a tax package would dominate the proceedings: planned expenditures exceeded anticipated income by about $231 million. As soon as the Senate organized on November 20, President *pro tempore* D. Russell Bontrager of Elkhart made it clear that Republicans were determined to saddle Governor Matthew E. Welsh and the Democrats with the blame for any tax increase. Bontrager said the state Constitution "mandates" the governor to recommend a program and propose how to raise the money for it. If the governor did not do so he would be "totally irresponsible."[60] A few days after Bontrager became president *pro tempore*, Senator Paul R. Newhouse of Morristown died, reducing the Republican margin to 25-24. With Republican ranks reduced to less than a constitutional majority, Governor Welsh refused to call a special election to fill the vacancy.[61] No bill could pass the Senate unless at least one Democrat supported it.

For 101 days, from January 10 to April 20, 1963, taxes and the budget dominated the General Assembly. Political reporter Jack Averitt of the Indianapolis *News* estimated that some sixty-five plans were considered during that time. At the regular session the House approved one budget premised upon a sales tax but it failed in the Senate. At the same time the House refused to approve a Senate-endorsed increase in the gross income tax. Democrats blamed Republicans for the stalemate, Republicans blamed Democrats. On the sixty-first day (March 11) the clocks were stopped seventeen minutes before the midnight legal deadline but the session adjourned at 4:14 a.m. the following morning without a budget bill. Not since 1885 had a legislature adjourned without providing a biennial budget. Governor Welsh immediately summoned the legislators to convene in special session at 2 p.m. on March 12 to hammer out a budget and tax program. The deadlock persisted. On March 29 Senator Keith R. Fraser of Portland threatened to go home until Welsh called a special election to fill Newhouse's seat: "From the outset, this legislature was destined to be abortive

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[60] Indianapolis *Times*, November 20, 1962.

[61] There was ample, even recent, precedent for Welsh's refusal. In 1960 Governor Handley refused to call special elections when two representatives died after the election. Governor Schricker did likewise in 1948 when Democratic Senator Charles F. Fleming resigned because he was elected secretary of state. Indianapolis *News*, December 5, 1962.

for the reason that the Senate was without a constitutional majority," Fraser said. Welsh remained adamant; Fraser remained at his post.[62] On April 16, the thirty-seventh day of the special session, the House voted 33-61 against a Senate-approved one-third hike in the gross income tax after the Senate defeated a sales tax passed by the House. The bills went to a conference committee and on April 18 the press was asking "Can state lawmakers do in three days what they have been unable to do in 98 days?"[63]

The conference committee proposed a compromise tax program known as the "2-2-2 Plan." Embodied in two bills, the plan incorporated a 2 per cent retail sales tax with no exemptions, a 2 per cent adjusted gross income tax, and a 2 per cent corporate net income tax. Speaker Richard W. Guthrie and Lieutenant Governor Ristine agreed to support the plan after Governor Welsh agreed that he would sign the bills into law. On Thursday, April 18, the House approved the changes in both bills by votes of 52 to 42 (36 Republicans and 16 Democrats for) on the sales tax and 53 to 41 (28 Democrats and 25 Republicans for) on the individual and corporate income taxes.[64] The next day, the one hundredth of the 93rd General Assembly and the next to last day of the special session, the plan moved to the Senate for its conclusive trial. That body, on a bipartisan basis, had consistently opposed any sales tax. The opposition was impassioned. Lobbyists for the AFL-CIO and the National Association of Manufacturers found themselves in rare agreement in opposing tax increases.

At 11:00 a.m., amid mounting tension, Lieutenant Governor Ristine convened the Senate and forty-nine members answered the roll call. At that point a tie vote was out of the question. Suspense grew as a motion to dispense with second reading of the conference committee reports prevailed. Then, as Ristine prepared to hand down the report incorporating the sales tax for final approval, Senator Walter Anthony Baran of East Chicago rose from his seat, fainted, and was carried from the chamber. Baran, a veteran legislator of nine years, suffered from chronic ulcers. He also adamantly opposed any sales tax and his absence removed a certain negative vote. The roll call commenced immediately after Baran left. Thirteen Democrats and eleven Republicans voted aye; ten Democrats and fourteen Republicans voted no. Democrats voting in the negative included long-time veterans William C. Christy of Lake, Von A. Eichhorn of Wells, Wilfrid J. Ullrich of Dearborn, and Minority Leader Jack H. Mankin of Vigo. The Republican naysayers included President *pro tempore* D. Russell Bontrager and seasoned lawmakers Robert L. Brokenburr of Indianapolis, Roy Conrad of Monticello, and former Speaker of the House George S. Diener. Ristine, well aware that his was the leading role in a great drama and perhaps sensing that it was the most important moment any lieutenant governor had ever experienced in Indiana's legislative process, looked at the tally board, paused, and said in a

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[62] For Averitt's estimate, Indianapolis *News*, April 20, 1963; for the end of the regular session and calling of special session, Indianapolis *Times*, March 12, 1963; for Fraser's threat to resign, Indianapolis *Star*, March 30, 1963.

[63] Indianapolis *Times*, April 18, 1963.

[64] Welsh, *View from the State House*, 155-57. See also *House Journal*, 1963 (s.s.), 152-53.

straightforward, firm voice: "To get this session over with and to get the state moving forward again, the chair votes aye." The strain broken, the chamber burst into applause. The senators immediately concurred in the report on the income tax bill 34 to 14, and waited while Willis K. Batchelet of Angola filed an official protest against the sales tax.[65] The next day the longest and last of the twenty general assemblies elected under the 1921 apportionment acts adjourned *sine die*. For his part, Ristine never regretted his action. Nearly twenty years after the fact he said "It had to be done . . . for Indiana" because the state needed the revenue.[66]

The famous casting vote of Ristine on April 19, 1963, stands as the most dramatic ballot ever cast by an Indiana lieutenant governor. Nearly $250 million of additional revenue became available in the next biennium to meet needed social and educational goals. Because of the bipartisan nature of the votes for and against in both houses, and because of the stance of Governor Welsh, both parties had a hand in passing the sales tax; neither could be saddled with the blame. Almost certainly Ristine's role did not cause his defeat in the 1964 gubernatorial election. Rather, in a year when Lyndon Johnson swamped Barry Goldwater by more than 259,000 votes for the presidency in Indiana, no Republican candidate for governor could have won. In 1965 Ristine left public service to become an executive with L. S. Ayres & Company in Indianapolis, and later with Lilly Endowment, Inc. He never held another elected office.

The office of Senate president *pro tempore*, thanks to some essential differences between the two houses, is not as powerful a post as speaker of the House. For one, with half as many members, the Senate is a less unwieldy body and does not require such strong leadership. Secondly, senators serve terms twice as long as those of representatives and the average level of experience is correspondingly greater in the upper house. A disproportionate number of representatives at each session are freshmen totally new to the legislative process. As new legislators they invariably require stronger leadership than holdover senators. A body dominated by freshmen at most sessions is also considerably more likely to tolerate rules that invest nearly dictatorial power in the leadership. In short, the speaker of the House can command; a president *pro tempore* is more likely to cajole.

Like the speaker, the president *pro tempore* is designated by the majority party caucus shortly after the November election. He then makes committee appointments and releases them to the press days before the General Assembly convenes. Between 1930 and 1970, twelve men served in the post, which often was contested heatedly. Only Republican John W. Van Ness (1944 to 1957) and Democrat Jack H. Mankin (1965 to 1967) served at more than one session. Van

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[65] For Baran's dramatic departure, Indianapolis *News*, April 20, 1963, and Welsh, *View from the State House*, 159-61; for Ristine statement, Indianapolis *Star*, April 20, 1963; for the roll calls and protest, *Senate Journal*, 1963 (s.s.), 436-37; *Laws*, 1963 (s.s.), 60-81.

[66] "Man Of Many Hats, Ristine Is Little Giant Of Public Service," Indianapolis *News*, December 13, 1982; Ristine file, Centennial History, ISL.

Ness, due to his extraordinary tenure of thirteen years, was the most important and influential president *pro tempore* of the era.

Van Ness won the post at the first special session of 1944 after Thurman A. Biddinger resigned due to military service. Van Ness continued in the office for seven additional sessions until his voluntary retirement in 1957. He recalled that, besides the appointment of committee chairmen, the president *pro tempore* approved Senate patronage appointments, presided when the lieutenant governor was absent, set opening and closing hours, and closed sessions *sine die.* Van Ness thought the post the most demanding yet rewarding job in the Senate. He added that the president *pro tempore* should master parliamentary procedure and the content of each important bill introduced in either house. It was the responsibility of the individual legislator to get his bill into correct form. Each party appointed legal counsel to help with this as did the Legislative Reference Bureau which, Van Ness agreed, was inadequately staffed throughout his tenure. Once a bill was introduced it became the tedious job of the president *pro tempore* to track the bill's progress through both houses. For this task, Van Ness found a service performed by the Indiana State Chamber of Commerce to be indispensable: at each session, beginning in the 1940s, the Chamber provided a looseleaf notebook to each legislator. As the session progressed, the book filled with printed analyses of all bills as each was introduced. At the end of each analysis was room to note the bill's progress through the General Assembly. The Chamber also furnished a daily "Legislative Action Calendar," which traced each bill by number and subject matter through its house of origin, committee disposition, action on second and third reading, progress in the second house, and final disposition by the governor. These progress sheets were on legislators' desks when they arrived in the morning. After the session ended the Chamber published a "Digest of All Laws"; this included a "Legislative Scoreboard" of statistics on bills introduced, bills that failed, bills passed, bills vetoed, laws enacted, and the percentage becoming law. Van Ness found these Chamber publications the most useful tools at his disposal.[67]

Best remembered as a chief architect of the conservative legislative program during his years in office, Van Ness in 1957 was accorded the title "President Pro Tem Emeritus for so long as he shall live." The Senate passed the resolution in recognition of his unparalleled tenure in a leadership position.[68] Van Ness felt his most exasperating experience as Senate president occurred during the closing hours in 1949. A Democratic lieutenant governor allowed Samuel W. Isler of Jeffersonville to give a musical performance in spite of Van Ness' objection that "$4,000 a day [the cost of legislative salaries] seemed a tremendous price for

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[67] Van Ness, *President Pro Tem Emeritus, passim*. For facsimiles of the Chamber publications, see chapter 5.

[68] The honoring resolution was cosponsored by Democrat Von A. Eichhorn who had entered the Senate with Van Ness in 1939. It passed unanimously and commended Van Ness especially for his "wise, temperate statesmanship, his equable contention and his warm friendliness." *Ibid.*, chapter 16, pp. [10-14].

banjo music." The incident inspired the headline "Senator Fiddles While President Pro Tem Burns."[69]

Other Officers, Rules, and Committees

The clerk of the House, the secretary of the Senate, and the principal doorkeepers for each house were the other major legislative officers. Since the pioneer period they had been elected on a party line vote at the beginning of each session. Long-standing party loyalty remained the chief requirement for selection. One change, however, was that these offices were not as attractive as before because the pay relative to jobs elsewhere was poorer than in previous eras. Thus they ceased to be subjects of intense politicking and heated caucus battles. Consequently, the press became surprisingly silent regarding these posts. Even more surprisingly, State House reporters ceased to publicize the partisans who descended upon the capital city each biennium in search of patronage. Not that these seekers after official favor decreased in number or fervor; indeed, their numbers increased each decade. But the press, instead of complaining about "an army of doorkeepers and clerks" serviced by "plunder committees," ignored most recipients of session-time employment. In other words, by 1931 patronage employees had become part of the furniture of the legislative process, like desks, chairs, typewriters, or elevators, ordinarily unworthy of comment.

At the Depression session of 1933 there were fourteen officers of the House and seventeen officers of the Senate listed in the legislative *Journals*. Each house also had the usual assortment of assistant doorkeepers (forty-nine in the House, thirty-six in the Senate), clerical assistants, stenographers, typists, and custodians. These people received their appointments from the House patronage committee or the Senate committee on employing assistants and incurring indebtedness (the Senate's circumlocution for patronage).[70] When the era ended in 1969, the *House Journal* listed twenty-three officers, the *Senate Journal* sixteen. Officers added since 1933 included majority and minority floor leaders and caucus chairmen, and majority and minority attorneys. Neither house had a patronage committee as such by 1969. Instead, in each house each party had a patronage chairman who dispensed over 200 session-time jobs. The temporary employees included thirty-five assistant doorkeepers in the House and twelve in the Senate, plus a variety of clerical assistants. There were also fourteen receptionists, several janitors and maids, and a director of student activities for the Senate.[71]

The per diem of lawmakers, set at $10 in 1927, was reduced to $9.15 at the 1933 and 1935 sessions due to the Depression. The 85 cents was restored in 1937 and remained in effect through the 1945 session. The legislators of 1943 replaced per diem with a salary of $1,200 per year to begin in 1947. In odd

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[69] *Ibid.*, chapter 10, p. [10].

[70] *House Journal*, 1933, officers, 1136, committees, 1141-44, employees, 1128-32; *Senate Journal*, 1933, officers, 1336, committees, 1341-44, employees, 1327-31.

[71] *House Journal*, 1969, officers, 1, committees, 1759-61, employees, 1342-47; *Senate Journal*, 1969, officers, 1, committees, 1418-20, employees, 1167-71.

numbered (or session) years members received half of the salary on January 15 and half on February 15. In even numbered years they received quarterly payments in mid-January, April, July, and October. The salary was increased to $1,800 per year in 1955. Lawmakers initiated a new kind of compensation in 1943 when they voted themselves expense allowances. The allowance began at $5 per day in 1943 and increased to $10 per day in 1953. In addition to per diem or salary and the expense allowance, from 1927 through 1953 lawmakers were also allowed $5 for every twenty-five miles traveled to and from Indianapolis. The mileage allowance was changed to 6 cents per mile in 1955, with reimbursement limited to one trip per week on legislative business. In 1957 the legislature stipulated that the salary should be in full for attendance and no additional pay should be provided for special sessions.[72]

At the close of the marathon session of 1963, after tax increases were approved, lawmakers voted themselves a pay raise. According to Senator Charles M. Maddox, chairman of the budget conference committee, "the matter of extra money for lawmakers was hotly debated in secret session" before agreement was reached. The new terms gave lawmakers an additional $35 for each day of the 1963 special session.[73] Technically, this raise violated Article 4, section 29, of the state Constitution, which provides that lawmakers shall be compensated, "but no increase of compensation shall take effect during the session at which such increase may be made." They also approved an allowance of $20 per day beginning in 1965, which in effect raised legislative salaries to $4,820 each biennium. At the same time they raised the mileage allowance to 7 cents per mile for travel to and from Indianapolis.[74]

In 1967 Governor Roger D. Branigin vetoed a bill that would have raised lawmakers' annual pay from $1,800 to $4,000 effective November, 1968, and to $6,000 annually effective November, 1970. The bill also would have provided monthly expense money of $100 when the legislature was not in session. On March 13, 1971, in ruling on a suit brought by Senator Eugene Bainbridge, the Marion County Superior Court held that Branigin had waited too long to veto the bill and thus the measure had become law without his signature.[75] The only pay raise legislators received between 1965 and 1979 came by way of this court ruling. Expense allowances, however, were raised several times during the 1970s so that by 1978 most legislators supplemented their salaries by about $6,200 in expense allowances.[76] The short session of the 100th General Assembly passed the last bill of the 1970s affecting salaries and expense allowances. The bill raised the annual salary to $8,000 effective November 6, 1978, and to $9,600 annually beginning January 12, 1981. The bill also provided for $44 daily expense allowance while on legislative business, a weekly between-sessions expense allowance of $75,

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[72] *Laws*, 1927, p. 5; *ibid.*, 1932 (s.s.), 276; *ibid.*, 1933, pp. 731-32; *ibid.*, 1943, pp. 537-38; *ibid.*, 1945, p. 563; *ibid.*, 1953, pp. 21-23; *ibid.*, 1955, pp. 126-27; *ibid.*, 1957, pp. 1-2.

[73] Indianapolis *Times*, April 21, 1963.

[74] Kettleborough, *Constitution Making in Indiana*, 1:322; *Laws*, 1963 (s.s.), 49-52, 54-55.

[75] Indianapolis *Star*, April 9, 1971.

[76] "Legislator's Pay Tops $12,000 Per," Indianapolis *News*, February 24, 1978.

and a mileage expense of 15 cents per mile. Additional annual allowances for leaders were set at $3,000 a year for the speaker and president *pro tempore*, and $2,000 a year for majority and minority floor leaders, and $1,500 a year for assistant leaders and caucus chairmen.[77]

The changes in remuneration for lawmakers and increases in the number and compensation of session-time employees meant that the costs of sessions rose steadily. The General Assembly of 1929 broke the $150,000 barrier. Four years later, as the Great Depression occasioned a retrenchment in both per diem and the number of patronage positions, lawmakers cut expenses. The $132,895.35 cost in 1933 made it the least expensive of any session during the era. By the late 1930s, however, costs of sessions once again exceeded the $150,000 mark and by 1943 the $200,000 mark. Indiana's first half million dollar legislature convened in 1949; the first to cost three quarters of a million in 1955. From 1957 to 1967 annual sessions ranged between eight and nine hundred thousand dollars in costs. The last session of the era, convening in 1969, became the first million dollar legislature, with total session-time expenditures of $1,038,935.34.[78] In the 1970s, with annual sessions, a Legislative Council that met year round for practical purposes, and a greatly expanded Legislative Services Agency, multi-million dollar legislatures became the norm. For example, in the fiscal year 1972-1973 about $4 million was spent on the legislature and legislative-related costs. The centennial legislature cost nearly $6.6 million for its long session in 1977 and its short session in 1978. During the fiscal year 1978-1979, encompassing the 1979 long session, more than $7 million was spent in legislative related costs.[79]

While compensation and session costs changed greatly during the period, there were few changes of substance in the rules governing each house. Each legislator presumably received a copy of the rules at the beginning of each session. Although their number seemed to increase, the major difference was that rules were simply rearranged and numbered differently. No essential changes were made; both houses between 1931 and 1969 were governed by basically the same rules that had been in effect since at least the Civil War.[80]

Manuals on legislative procedure were more useful in lawmaking than the formal rules governing each house. Such manuals, spelling out the steps that must be taken to enact a law, were not attempted until 1899. In that year, a manual appeared under authority of an act passed in 1899. This volume of over

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[77] *Ibid.*, March 9, September 25, 1978.

[78] For costs by session from 1931 to 1967, see Indiana Legislative Bureau, "The Indiana General Assembly," Indianapolis, 1954-1967, pp. 48-49a, typescript in Indiana Division, ISL; for 1969, *House Journal*, 1969, pp. 1339-47, *Senate Journal*, 1969, pp. 1165-72.

[79] For legislative costs in the 1970s, Indianapolis *News*, November 26, 1978.

[80] For rules from 1851 to 1929, see above, pp. 236, 382. Rules in both houses have remained basically unchanged through the 1970s and 1980s. For example, in 1971 there were 98 House rules and in 1973 there were 148. But the number of pages for each set was approximately the same. This held true for Senate rules in 1973 and 1983: the number went from 61 to 98, but the pages devoted to each were 25 and 24 respectively. See *Standing Rules and Orders . . . House of Representatives* (Indianapolis, 1971, 1973) and *Standing Rules and Orders . . . Senate* (Indianapolis, 1973, 1983), in Indiana Division, ISL.

1,200 pages included the rules and rosters for each house, biographical sketches of each member of the 61st General Assembly, historical documents such as the Magna Carta, and a section of less than three pages entitled "Fixed Rules and Precedents in Legislation." The work was compiled by the state librarian, William E. Henry, who explained that since it was the first attempt at such a manual "I have had the advantage of large freedom and the disadvantage of no guide." The legislature of 1901 refused to appropriate funds for a second edition, but shorter manuals were published for the sessions of 1903, 1905, 1907, and 1909. The number of pages dropped each year due to legislative concern about the cost of publication. "Because there was no appropriation," a manual was not printed in 1911. The last of these early manuals, reduced to 436 pages, appeared in 1913 and still included the brief section on fixed rules and precedents.[81]

The first comprehensive guide to the steps necessary to advance a bill into law appeared in 1928. Compiled by Charles Kettleborough of the Indiana Legislative Bureau, the pamphlet was "designed as a description of the ordinary method and procedure observed and followed by the General Assembly of the State of Indiana in the preparation, introduction, consideration and passage of or adverse action on bills and other legislative measures." It provided 100 pages of detail on the various steps that must be taken to enact a law. Included were descriptions and samples of the forms, the language that must be used, and the signatures that must be secured.[82] George W. Meyers, who served from 1945 to 1973 either as Republican attorney or parliamentarian for the House, helped prepare a 116-page revision of the manual that was published in 1954. Updated revisions appeared in 1968 (146 pages) and in 1972 (194 pages). This last was prepared by John A. Bremer, associate director of the Public Law Division, Legislative Council. Its purpose, said Bremer, was "to describe the procedure followed by the General Assembly when considering the enactment of proposals which would amend, or repeal existing laws or which would add new laws to the body of law enacted by preceding General Assemblies."[83]

In summary, a member of the legislature had the rules of each house for guidance no matter when elected. After 1899, a few pages on fixed rules and precedents were available. But only after 1928 was there a detailed discussion in print of the machinery involved in passing a bill into law, with illustrated models showing exactly what would be needed. Even so, the business of making laws was so complicated that neither new members nor experienced veterans were in a position to master the process and assimilate the details. As a result, most

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[81] William E. Henry (comp.), *Legislative and State Manual of Indiana for 1899 and 1900* (Indianapolis, 1899), quotation, Prefatory Note; Demarchus C. Brown (comp.), *State of Indiana Legislative Manual for 1913* (Indianapolis, 1913), quotation, Prefatory Note.

[82] Legislative Bureau of the Indiana Library and Historical Department (comp.), *Legislative Procedure in the General Assembly of the State of Indiana* (Indianapolis, 1928), quotation, Preface.

[83] Meyers oral history interview, 270-71, Indiana Division, ISL; John A. Bremer (comp.), *Legislative Procedure in the General Assembly of the State of Indiana* (Indianapolis, 1972), quotation, 1.

legislators were frequently at the mercy of the leadership, committee chairmen, and the veterans who knew the legislature's inner workings.

Committee procedures continued to be amazingly informal and unpredictable. The experience of Joel D. Rhodes as a freshman representative from Wayne County in 1957 illustrated the difficulties a newcomer might encounter. Rhodes was invited to a banquet at the Columbia Club where a committee he belonged to was to discuss a bill pertaining to a commercial code. He arrived late and went to a room on the proper floor where guests were seating themselves at a buffet table. After the meal a motion picture of Governor Harold W. Handley's inauguration was shown. When the movie ended the governor, who was present with several Republican leaders, chatted with guests for a few minutes and left. The following day Rhodes was asked why he had not attended the committee meeting. Not until then did he realize that he had been on the right floor but in the wrong room. "But I had a good time," said Rhodes, adding that his was a typical "freshman blunder."[84]

Except for emergency measures, most bills were referred to the committee having the general subject of the bill in charge. There a bill would be held or reported as a committee wished. Chairmen might refuse to call committees together or refuse to submit a bill to them. If a bill reached the hearing stage there was no regulated procedure. Meetings were often called without adequate notice, minutes were not kept, and the proceedings were not generally reported. Other lawmakers and the public at large were normally left guessing as to who had appeared and what was said. Votes of members were not recorded and no public notice was given of how they voted.

Such a state of affairs inspired little confidence. Secrecy is one thing; participation in a charade was worse. Two legislators who began their careers in the House and then moved to the Senate recalled such committee procedures vividly. Democrat W. Wayne Townsend of Blackford County entered the House in 1959 and was elected to the Senate in 1970 while Republican John R. Sinks, Jr., of Fort Wayne started in the House in 1965 and was elected to the Senate in 1976. Both remembered when legislative committees held public hearings for show and then, to get down to business, expelled spectators and reporters. Only then did members debate the measure. After voting secretly, the doors were opened and the decision announced. "Sometimes, someone would make an impassioned speech at the [public] meeting, and when the door was closed, he'd say he didn't really even like the bill," Townsend remarked. Sinks added that "conference committees, designed to iron out differences between House and Senate versions of a bill, . . . were known to meet in saloons."[85] The situation did not improve until the 1970s when both houses framed rules to govern public meetings and adopted "sunshine laws" against secrecy.

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[84] "He's in Right 'Church' but Wrong Pew," Indianapolis *News*, February 14, 1957.

[85] "Assembly more effective with age," Indianapolis *Star*, January 23, 1984.

The Legislative Reference Bureau

During the twenty regular sessions and nine special sessions between 1931 and 1969, 6,602 bills were passed. This was almost 2,000 more than became law between 1890 and 1929 when 4,645 statutes were enacted. The Democratic legislature of 1965 set the record for a single session with 488 enactments. (The Republican legislature of 1969, with 477, was the second most productive in terms of number of laws.) Democrats controlled both houses at four sessions and averaged 356 new laws per session; Republicans were ascendant at nine sessions and averaged 359 new laws. The General Assembly was split between the two parties at seven sessions and those legislatures averaged 321 enactments each, an average of forty fewer laws than when one party controlled both houses. The session of 1939 produced the fewest with 176. The sessions also passed 528 joint or concurrent resolutions, with 287 originating in the House and 241 originating in the Senate. The number of bills introduced during the era totaled 19,825 and the volume first exceeded 1,000 at the 1941 session when Republicans controlled both houses under a Democratic governor. With the exception of this session, the number remained below a thousand through 1955. From 1957 to 1965 the number of bills introduced at each session ranged between 1,032 and 1,227. The total reached 1,530 at the 1967 session and hit a peak with 1,819 measures introduced at the last session in 1969. In all, one third of the bills introduced between 1931 and 1969 were enacted into law as compared to less than one fourth of those introduced between 1891 and 1929.[86]

The Legislative Reference Bureau retained its reputation for neutrality, bipartisanship, and excellence in drafting bills and aiding lawmakers throughout most of the period. Except for the sessions of 1933 and 1941, when Democratic and Republican "bill factories" for the most part eclipsed the Bureau, it functioned in the manner established in the 1920s by the dour and scholarly Charles Kettleborough. Republicans, complaining in the mid-1930s that they did not have access to Bureau services because Democrats had taken it over, drafted their bills in 1935 and 1937 at the party's headquarters in the Claypool Hotel. Once Herbert P. (Herb) Kenney, Sr., replaced Kettleborough following the latter's death in 1938, however, these complaints ceased and the Bureau regained its former stature.[87]

Nothing in Herb Kenney's background would have suggested a return to bipartisan neutrality. He had served three terms as a Democrat in the House before moving to the capital city from New Albany in 1933 to direct bill drafting for Paul V. McNutt at the Indianapolis Athletic Club. He continued to help in preparing the Democratic legislative agenda in 1935 and 1937 while serving as

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[86] Bills and Resolutions Introduced In and Passed by the Indiana General Assembly 1901-1953 (with supplements from 1955 to 1967), in Indiana Legislative Bureau, "The Indiana General Assembly," 43-44a, typescript in Indiana Division, ISL. The totals for 1969 were compiled by the author. For the period 1891 to 1929, see above, p. 383.

[87] For a typical Republican complaint, see Robert A. Hoover, Sr., oral history interview, 1st ms., 40, Indiana Division, ISL. Hoover served seven terms in the House between 1935 and 1949.

assistant public counselor for the state Public Service Commission. In 1938 Governor M. Clifford Townsend, seeking an experienced draftsman with impeccable party credentials, appointed Kenney to succeed Kettleborough as director of the Bureau. Kenney's office in the State House was soon walled in, floor to ceiling, by statute and reference books. During sessions legislators of both parties eagerly sought and received his expert guidance in bill drafting. Between sessions state officials and employees, legislators, and newspapermen frequented the office for information and usually came away with what they wanted. "I never have asked him a question he couldn't answer," said long-time political reporter Edward Ziegner of the Indianapolis *News*. "Usually the answers come from the incredible store of information he carries in his head. If it isn't there, he knows where to find it." In short, Kenney established himself as one of those rare individuals who, even in an age of bitter and extreme partisanship, rises above party to become a true public servant. In 1945, when Ralph F. Gates recaptured the State House for Republicans after twelve years of Democratic incumbency, he left Kenney as Bureau director, an action the Indianapolis *Times* saw as "something slightly rarer than the atmosphere at 40,000 feet."[88]

An important change in the structure of the Bureau came in 1945 when the legislature created a Legislative Advisory Commission as a joint committee of the General Assembly. The commission functioned year round and consisted of eight members, including the president of the Senate, the speaker of the House, and three members of each house, no more than two of whom could be members of the same party. Although the law did not specify that these individuals must be named, in practice the members included the majority and minority floor leaders and the caucus chairmen. The intent of the legislation was to increase legislative control over the Reference Bureau as well as to provide research facilities and continuity between sessions. The act repealed or amended earlier acts concerning the Bureau but retained a director appointed by the governor.[89]

Thus, beginning in 1945, the leadership of both parties exercised continuous influence in the operations of the Bureau. Kenney remained director through Democratic and Republican administrations from April, 1938, to October, 1954. He and his small staff of five to six full-time employees, augmented by patronage appointments during sessions, performed a notable service for the Indiana General Assembly. According to Charles R. (Charlie) Brown, a Parke County attorney who joined the staff in 1949, session time was especially hectic: "it was time, time, time, pressure, pressure, pressure against time."[90] And always on the scene seeing that the job was done right was Herb Kenney. When ill-health forced him to retire in October, 1954, the Indianapolis *News* offered odds that the General Assembly of 1955 would not run as smoothly as in past years. That

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[88] "Could They Even Have An Assembly Without Kenney," Indianapolis *News*, October 9, 1954; Kenney obituary, Indianapolis *Times*, April 27, 1963.

[89] *Laws*, 1945, pp. 186-94.

[90] Brown oral history interview, 3rd ms., 83-89, quotation, 88, Indiana Division, ISL.

was because "a chunky, pipe-smoking Hoosier with an encyclopedic knowledge of state government, law and proposed legislation, won't be at the helm of Indiana's Legislative Bureau."[91]

Governor George N. Craig named Samuel T. Lesh as director of the Bureau when Kenney retired. Lesh, who had joined the staff in March, 1946, continued in the post until 1967 when the legislature replaced the Bureau with the Legislative Services Agency. During Lesh's tenure the primary work of assisting lawmakers with impartial and accurate information continued. Draftsmen still labored to prepare bills, to improve wording, and to reduce the length of statutes. The Bureau, still understaffed, also served the governor and various other departments, institutions, and agencies in legislative-related research.[92]

The biggest improvement during the Lesh years came in the late 1950s. In December, 1958, the Legislative Advisory Commission recommended a five-day "briefing session" for every General Assembly the month before it convened. Members would receive per diem plus mileage as Lesh and his staff offered a preview of prospective legislation. The first such meeting was held in Bloomington at Indiana University prior to the 1959 session. The gathering moved to the State House in 1960, where members elected for the 1961 session met for three days of reports on proposed legislation and to hear addresses by Speaker-elect Guthrie, Lieutenant Governor-elect Ristine, and Governor-elect Welsh. These pre-legislative conferences became ever more elaborate as the 1960s progressed. The last one of the era, in 1968, proved that such conferences were no cure-all. Republicans, with majorities in both houses, felt the incoming administration of Governor-elect Edgar D. Whitcomb was not providing enough information or direction regarding its plans. As a result of this poor communication, rumors were flying and most members elected for 1969 became "concerned, pessimistic, moody, and even confused." According to Edward Ziegner of the Indianapolis *News*, "It may be said they came to learn and went home to pray."[93]

Once the 1967 session replaced the Legislative Reference Bureau and the Advisory Commission with the Legislative Services Agency and Legislative Council, both controlled by the General Assembly, Sam Lesh's days were numbered. Lesh, long accustomed to directing an entire agency, was demoted to head of the Public Law Division in the new arrangement and found himself primarily answerable to legislative leaders. He encountered increasing criticism. President *pro tempore* Phillip E. Gutman said in 1971 that "Sam is a valuable man, but he is used to doing it by himself and it is more than a one-man job." Speaker Otis R. Bowen added that he always liked Lesh but found him "resistant to change." On September 21, 1971, the last Bureau director to be appointed by

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[91] Indianapolis *News*, October 9, 1954.

[92] See "Experts Draft Bills For Lawmakers," *Indiana Report* (September, 1959), 2, published by the Indiana State Chamber of Commerce.

[93] "'Briefing' Favored For Legislature," Indianapolis *Star*, December 3, 1958; "Legislators Set 3-Day Session," *ibid.*, November 27, 1960; Indianapolis *News*, December 14, 1968. For details of other pre-legislative conferences, Indianapolis *Times*, December 1, 1964, Indianapolis *News*, November 29, 1966.

a governor was "relieved of all responsibility" effective October 4.[94] The firing marked the end of one-man operations by gubernatorial appointees like Kettleborough, Kenney, and Lesh. Indeed, the removal of Lesh should be seen as part of a developing assertiveness by the General Assembly in its relations with governors and as part of a trend toward heavier burdens on legislators. This latter trend was also marked by increasing agitation for annual sessions, which succeeded in 1971. Kettleborough, Kenney, and Lesh made distinguished contributions to the development of the Indiana General Assembly for fifty years. The end of biennial sessions in 1969 embodied the widespread belief that the business of the legislature had simply outgrown the system directors of the Legislative Reference Bureau had established and nurtured. As a new era began in the 1970s legislators were in charge of their own Legislative Services Agency. To see that things were done to their satisfaction, the new agency was given a far bigger staff than the old Reference Bureau.

The Budget Committee

The state Budget Committee, for practical purposes in absolute control of state expenditures during each biennium from 1931 to 1961, was the most powerful committee of legislators during the first three decades of the era. The committee's power was curbed after 1961 because objections were raised regarding its constitutionality. Until the latter year, its power of the purse made the Budget Committee the most influential and feared committee in state government; without its blessing no funding for state officials or agencies was secure. All members who served on the committee understood their power. A few even flaunted it. Senator Robert P. O'Bannon served on the Budget Committee continuously from 1953 to 1970 and introduced the legislation that reformed it in 1961. He recalled one colleague in the 1950s who became angry with a governor of his own party and blocked funding for roof repairs at the governor's mansion "just because he wanted to show . . . he had the power to do it." Sometimes, said O'Bannon, members of the committee "kind of felt their oats. They kinda bragged about their power."[95]

The system of budget control that became established procedure had its origins in the early 1920s when Governor Warren T. McCray appointed one Republican and one Democrat from each house to serve as an advisory committee on the biennial budget. In 1925 the legislature made the advisory committee a permanent interim committee to be appointed by the governor within ten days after each general election. As state funding and spending became increasingly more complex each biennium, the committee's power grew. The committee reached its zenith with legislation in 1941 that in effect placed the financial reins of the state in the hands of the four-man bipartisan group. The act specified that all committee members should be "persons of known probity and business capacity"

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[94] Indianapolis *Star*, September 23, 1971. For the establishment of the Legislative Services Agency, see above, pp. 534-35.

[95] O'Bannon oral history interview, 2nd ms., 134-35, Indiana Division, ISL.

and most who served fitted that description.[96] After 1941 every item in every budget bill was quite literally "Subject to the approval of the State Budget Committee." It approved all construction projects, the budgets of all agencies and divisions of state government, the allocations of contingency funds in all departments, transfers of funds between offices within agencies, even personnel wage and salary schedules. The committee, not the governor, prepared the budget submitted to the General Assembly each biennium. Agency heads stood in awe of its members, spent hours preparing for hearings, and then spent more hours returning to answer requests for additional information. An important benefit of this system was that it ensured at least four members of each session became exceptionally well-informed about state finance.

A few legislators who enjoyed long tenures in the General Assembly, like Thurman A. Gottschalk, made careers out of the committee. Gottschalk, a Democrat from Adams County and owner of a construction company in Berne, served four sessions in the House and six in the Senate. He was a member of the Budget Committee from 1925 to 1937, including four years as chairman while the Democrats were in power. Gottschalk's knowledge of state finance led to his appointment as administrator of the state Department of Public Welfare in 1937 and as president of the state Welfare Board in 1949. Senator Isaac F. Garrott, a Lafayette banker who entered the Senate in 1927, was Gottschalk's Republican counterpart on the Budget Committee from 1934 to 1946. Garrott chaired this committee from 1941 to 1946. Other legislators who gained stature thanks to service on the Budget Committee included Senator J. Walter Vermillion, Representative Walter H. Maehling, and Representative Laurence D. Baker. Vermillion, a lawyer from Anderson, entered the Senate in 1933. He was the ranking Democrat on Budget from 1937 to 1940 and from 1942 to 1948. Maehling, a successful realtor and insurance agent in Terre Haute, entered the House in 1943 and was appointed to Budget in 1949. Like Vermillion, Maehling became the ranking Democrat on the committee and served until his death in 1960. He also was named ranking Democrat on the State Office Building Commission in the 1950s because of his command of state finance. Baker, a successful horticulturist from Kendallville, entered the House in 1945 and was ranking Republican on the Budget Committee from 1949 until his retirement in 1958.[97]

Men like Gottschalk, Garrott, and O'Bannon became powerful figures in state government mainly because they mastered the intricacies of state finance at a time when biennial budgets reached figures and totals beyond the grasp of ordinary mortals. Budget bills of a hundred pages or more, detailing expenditures of millions (ultimately billions) of dollars, were simply beyond the ken of most legislators as well as many of the public servants who headed and staffed state agencies. According to Matthew E. Welsh, even the governor who appointed the members found himself beholden to them if he wanted successful working

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[96] *Laws*, 1941, pp. 269-78, quotation, 269. For a concise description of the committee's operations, see Welsh, *View from the State House*, 81-82.

[97] Gottschalk, Garrott, Vermillion, Maehling, and Baker files, Centennial History, ISL.

relations with the General Assembly, "since a powerful legislator would exact his appointment to the committee as a price for his cooperation during the session." The question of the Budget Committee's power came to a head during the first session Welsh was governor. The litigious Senator Nelson G. Grills of Indianapolis filed an action in Marion County Circuit Court in 1960 separate from his previously filed suit over reapportionment. In this action Grills charged that the Budget Committee violated the separation of powers doctrine mandated by the state Constitution. Grills won the suit in the fall of 1960 when the court ruled that a committee of the legislative branch engaged in discharging duties of the executive branch was unconstitutional. It fell to the 1961 session to take remedial action after Welsh and key legislators from both parties decided not to appeal the ruling.[98]

Senators O'Bannon and Charles M. Maddox cosponsored the bill that transferred the power of the old Budget Committee to a new state Budget Agency under a director appointed by the governor. The act settled the question regarding constitutional separation of powers by making the executive branch directly responsible for the preparation of the biennial budget submitted to the General Assembly. A four-member Budget Advisory Committee of the legislature was retained with authority only to hold hearings and make reports. The act passed unanimously in both houses.[99] After a lapse of almost forty years, the role of the executive branch in determining how much money the state needed was restored. At the same time the legislature would be limited in budget matters to the constitutionally mandated function of initiating appropriations. After 1961, the House ways and means committee and Senate budget committee rediscovered powers neither had wielded for decades.

The Laws: Revenue and Appropriations

Raising revenue and appropriating the proceeds remained the most vital functions performed by the General Assembly. Until taxes are imposed the state has no operating capital. Unless the proceeds are allocated by law at each session, neither state agencies and divisions nor local governments have the means to meet their responsibilities. Both tax policy and appropriations became increasingly complex as needs and expenditures grew each biennium. Starting with tens of millions of dollars raised and expended annually in the early 1930s, the needs of government grew to where hundreds of millions were raised and expended annually in the 1940s and 1950s. By the end of the era in 1969, the legislature found it necessary to find funding for programs which cost more than a billion dollars each biennium. Landmark tax legislation in the 1930s set a pattern that remained essentially in place for three decades, although there were important modifications during the 1940s and 1950s. In the 1960s additional landmark

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[98] Welsh, *View from the State House*, 81-82.

[99] *Senate Journal*, 1961, pp. 331-32; *House Journal*, 1961, pp. 593-94; *Laws*, 1961, pp. 247-62. The vote was 49 to 0 in the Senate, 80 to 0 in the House.

legislation was necessary as Indiana prepared to enter a still more complex and more expensive era.[100]

From 1816 to 1930 most of the revenue to support state and local government was raised from taxes on real and personal property. By the early 1930s, because of the Great Depression, this source was no longer adequate. Preliminary steps to alleviate the burden on property were taken at a special session in 1932 when the General Assembly imposed a rate limit of $1.50 on local governments and a rate limit of $0.15 for state purposes. Both limits were per $100 of assessed valuation. In 1933 the legislature reduced the limit to $1 for townships; in 1937 lawmakers increased the limit to $1.25 for townships and to $2 for cities and towns.[101] Property tax relief was apparent by 1935 when the statewide levy reached its lowest level of the era at $91.5 million; it did not exceed the 1929 levy of $155.5 million again until 1948. Before the Depression local government depended almost exclusively on the property tax, which provided about 85 per cent of state and local revenue. Reduction of this income source threatened a governmental breakdown; when the 1933 session convened it was obvious that new sources of revenue must be found. The session responded with four major tax laws that changed the state's sources of revenue irrevocably and proved sufficient for the needs of state government until the 1960s.

The first tax law of 1933 imposed a gross income tax of 1 per cent upon both individuals and businesses. The tax was adopted despite bitter opposition from businessmen who denounced its application to retail sales and the provision for a 1/4 of 1 per cent tax on wholesale sales, advertising, and industrial processing. The other taxes imposed in 1933 included an intangibles tax and several new excise taxes. The excises included a series of imposts on alcoholic beverages, made possible by the repeal of prohibition, and a motor vehicle weight tax.[102] These changes proved dramatic: The property tax, which formerly supplied the bulk of state revenue, produced only 8.5 per cent of the almost $405 million raised by the state between 1933 and 1939. The rest was provided by taxes on gasoline and motor vehicles (30 per cent), the gross income tax (25.5 per cent), revenues derived from fees and licenses (21.7 per cent), and increases in federal funding (14.3 per cent).[103] As early as 1939 one third of the state's total revenue came from the taxes enacted in 1933 and most of the other two thirds came from sources adopted later in the decade.

Federal grants-in-aid expanded from about $4 million annually in the late 1920s to $16 million a year by 1939. The increase was due almost exclusively to welfare costs associated with participation in New Deal programs. These

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[100] For an overview of tax policy and expenditures from 1930 to 1960, see Donald W. Kiefer, *Indiana Public Finance, Past and Present: Report of the Commission on State Tax and Financing Policy* (Indianapolis, 1974), 20-27. Unless otherwise noted, the material on revenue and appropriations was derived from this carefully documented analysis.

[101] *Laws*, 1932 (s.s.), 17-20; *ibid.*, 1933, pp. 673-74; *ibid.*, 1937, pp. 646-47.

[102] *Laws*, 1933, gross income tax, 388-407, intangibles tax, 523-40.

[103] Kiefer, *Indiana Public Finance*, 22, table 2-3.

included federal funds administered by the state for township poor relief beginning in 1933. By far the greatest amount, however, was added by state participation in the federal Social Security system. This program occasioned a special session of the legislature in 1936 that enacted two historic public welfare laws. The state's massive welfare program originated with the first, the Public Welfare Act of 1936. This act created the state Department of Public Welfare and mandated the creation of similar departments in all ninety-two counties. It also brought the state Old-Age Pension program, initiated in 1933, into conformity with changes in federal law and provided assistance for dependent children. Most importantly, in light of later developments, the act gave tacit approval to the proposition that the federal government might impose conditions for participation in federal programs: "The State of Indiana hereby accepts all of the provisions and benefits of the federal 'Social Security Act,' . . . and shall observe and comply with all of the requirements of such act and the several amendments thereto and the rules and regulations issued thereunder and in conformity therewith."[104] A second major act in 1936 established a state Employment Security Division and enacted a tax on employers and employees for a special fund dedicated to unemployment compensation.[105]

The Public Welfare Act of 1936 made intrastate governmental transfers one of the dominant items in state spending. In 1930 transfers to local government constituted only about one sixth of state expenditures, and that mostly for highways and education. By 1939 state aid to local governments amounted to 45 per cent of the state budget, with funds for welfare programs constituting one fourth of the transfers. While the percentage of annual state spending on welfare decreased in the 1940s, with the improvement in the economy the total amount steadily increased. Between 1940 and 1949 it rose from $20.8 million to $32.1 million, the third largest state spending category and perhaps the most conspicuous.[106]

In theory and in rhetoric the Republicans who returned to power in the 1940s never accepted the premise of federal aid. In practice, however, Republicans not only accepted the premise, they strengthened it. Conservative Republicans viewed the appropriation of state funds to match federal grants as a prime example of the "waste" that Democrats brought to government in the 1930s. At the same time, the federal government kept increasing the dollars available if the state would "observe and comply with all of the requirements." The federal approach of both carrot and stick offended many Hoosiers because it ran counter to their image of themselves as self-reliant citizens in charge of their own destiny. In the light of such an ethos, welfare spending became a hotly-contested item in each biennial budget until at least the mid-1950s. In 1947 the General Assembly adopted a resolution against federal dictation: refuse the federal money and eliminate the need to comply with federal requirements. That way

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[104] *Laws*, 1936 (s.s.), 12-80, quotation, 23.

[105] *Ibid.*, 80-120.

[106] Kiefer, *Indiana Public Finance*, 23-25.

welfare spending would in turn either be eliminated or greatly reduced.

This solution was the inspiration of Representative Lothair Teetor of Hagerstown, vice-president of the Perfect Circle Piston Company and a director of the National Association of Manufacturers. The NAM, founded in 1895 in the aftermath of the Panic of 1893, became the leading organization of businessmen opposed to labor unions. Teetor personified NAM leaders of the 1930s, mostly small manufacturers who felt harassed by welfare spending and unemployment taxes. After a decade of frustration he ran for the legislature in 1945 determined to put a stop to New Deal programs. The language of the famous 1947 resolution, so quintessentially Hoosier, was his:

> Be it Resolved by the House of Representatives, the Senate concurring, Indiana needs no guardian and intends to have none. We Hoosiers—like the people of our sister states—were fooled for quite a spell with the magician's trick that a dollar taxed out of our pockets and sent to Washington, will be bigger when it comes back to us. We have taken a good look at said dollar. We find that it lost weight in its journey to Washington and back. The political brokerage of the bureaucrats has been deducted. We have decided that there is no such thing as "federal" aid.

The resolution went on to assert that "we propose henceforward to tax ourselves and take care of ourselves." Indiana's congressmen and senators were asked to help in the effort by voting "to fetch our county courthouse[s] and city halls back from Pennsylvania Avenue. We want government to come home." Teetor's resolution passed the House without dissent and was approved 34 to 11 by the Senate.[107]

Teetor's manifesto appeared to inform the United States Congress that Indiana would no longer accept federal aid; not surprisingly, some congressmen placed that construction on the resolution. But did Indiana's legislators mean what they had apparently said? A concurrent resolution, which was the form Teetor's broadside took, does not have the power of law; Indiana was simply petitioning its delegation in Congress to do something about the particular subject matter contained in the resolution. "An Act concerning cooperation with the federal government . . . ," enacted by the same General Assembly in 1947, did have the force of law. This act, which passed the Senate 41 to 1 and the House 82 to 0, reflected more accurately the real intent of a legislature that had no intention of refusing federal funding and diminishing welfare programs. The law authorized Indiana "to accept the provisions of any [federal] law, . . . or any rule, regulation, order or finding made pursuant thereto, . . . to receive benefits for itself or any of its citizens."[108] In other words, despite the sound and fury, welfare spending continued although Teetor's resolution precipitated a struggle

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[107] Senator Charles F. Fleming tried unsuccessfully to amend the resolution in the Senate to read that the General Assembly would replace lost federal funds in the budget with state funds. *House Journal*, 1947, p. 61; *Senate Journal*, 1947, pp. 102-3; *Laws*, 1947, pp. 1509-10. See also Teetor file, Centennial History, ISL.

[108] *House Journal*, 1947, p. 872; *Senate Journal*, 1947, pp. 328-29; *Laws*, 1947, pp. 605-8, quotation, 605-6.

between Washington and Indianapolis over Indiana's share of such funds.[109] Meanwhile, the bureaucracy that administered welfare for the state and in the counties became firmly entrenched. Transfers to local governments to support the system reached $37.8 million annually by 1959, about 7 per cent of total state spending as the 1950s ended.[110]

The tax laws of the 1930s were modified during the following two decades as new programs and needs necessitated additional revenue. One such necessity was pension benefits for public employees. Legislation in 1945 established a Public Employees Retirement Fund that covered most employees of state and local government. Public safety employees (policemen and firemen) were also the subject of several enactments regarding salary and benefits, such as an act in 1955 that provided for transfers to local governments to pay for police and fire protection. The rapid increase in the birth rate after World War II led to a rewriting of the school finance program in 1949. Spending for local schools increased from just over $18 million in 1940-1941 to almost $59 million by 1949-1950. Local school costs reached $102.4 million annually for the 1959-1960 school year as these children moved from elementary school to high school. Such growth forced the 1959 General Assembly to rewrite the school funding formula again. Increased costs of public schools forced the legislatures of 1949 and 1959 to provide for general reassessments of real and personal property, resulting in substantial increases over the rate per $100 of valuation that had been in effect since 1937. A surtax on the gross income tax in 1949 financed a bonus for veterans of World War II. This tax expired in 1954 with a sufficient surplus to extend the bonus in 1955 to veterans of the Korean War. By 1957 increases in all areas of state spending found the general fund surplus nearly depleted. Lawmakers in that year responded by increasing the gross income tax rate for individuals to 1.5 per cent accompanied by the requirement that income taxes be withheld from paychecks by employers of four or more persons. As a result of the increase and the withholding feature, income tax revenues grew from $102.8 million in 1954-1955 to just over $189 million for 1959-1960.[111]

Historically, appropriations were always the last order of business for each General Assembly and this remained true at every session between 1930 and 1970. From 1933 through 1937, with Democrats controlling both houses and the governorship, the sessions ended on time. Usually, however, the budget bill was not passed until after midnight of the final constitutional day, necessitating the

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[109] For the particulars of this fight with Congress, see Charles Francis Fleming, *The White Hat: Henry Frederick Schricker, A Political Biography* (n.p., 1966), 106-20. The 1961 session repealed Teetor's resolution with a new one that accepted federal aid without equivocation. The repeal was drafted by President *pro tempore* S. Hugh Dillin. Welsh, *View from the State House*, Appendix B, 238-41.

[110] Kiefer, *Indiana Public Finance*, 26.

[111] For public employees retirement fund, *Laws*, 1945, pp. 1589-1616; for police and fire transfers, *ibid.*, 1955, pp. 162-69; for changes in local school funding and increases in the property tax, *ibid.*, 1949, pp. 828-36, 722-28, and *ibid.*, 1959, pp. 638-41; for the gross income tax increase, *ibid.*, 1957, pp. 822-26.

old ploy of stopping or covering the clock. This sometimes enabled lawmakers to reconcile last-minute differences as happened with the split legislature in 1931, but failed in the similarly divided 1939 General Assembly. In the latter year the parties and the governor differed on a series of bills and efforts to come to agreement in conference committees failed. Both sessions ended the afternoon following the "last" day. "Indiana's legislators, groggy from lack of sleep, nodded in their seats this afternoon while extra typists rushed the biennial budget bills to their final form, the last act necessary to permit adjournment . . . ," said the Indianapolis *Times* in 1939. What was true in 1939 was almost always true. In 1945 Republicans controlled both houses and the governorship again. Still, "the last gavels fell 20 hours and 17 minutes past the constitutional deadline" due to delays caused by three voluminous bills that included appropriations for an $89 million biennial budget. In 1949, due to the controversy over Daylight Saving Time and a $207 million budget, the legislature adjourned forty-one hours late. In 1953, with the first biennial budget to exceed $600 million, the session ran thirty-five hours and twenty-four minutes overtime. Last minute deals that year included the restoration of $3 million for schools, a cost of living raise for state workers (but no compulsory raise for teachers), and the restoration of $1.6 million for state colleges and universities. In 1955 a deadlock over toll roads occasioned twenty-eight hours of overtime; in 1957 lawmakers went into overtime because "a conference committee deadlocked over appropriations to run the schools." The 1959 session was noteworthy because "Like Cinderella at the ball, the 91st General Assembly . . . got out while the clock was striking 12." This marked only the sixth session since 1905 to end on time.[112]

Those legislators who served on the Budget Committee (four at each session) were among the handful who really mastered the complexities of money and finance as they applied to lawmaking during and after the Great Depression. A few others became conversant with the budget because of committee assignments, or personal, or constituent interest. The overwhelming majority at each session, even if they had the talent or interest, simply lacked the time to become proficient in such matters. The proliferation of needs after 1933 was too great, the disagreement over policy too wide, the myriad of programs too vast, and the escalating costs too daunting for most lawmakers. These were the major reasons why the budget bill was always the last order of business and why sessions rarely ended on time. At most sessions a majority vote on taxes and budget in both houses could not be mustered as the result of a process of reasoned comprehension. Rather, a majority vote on appropriation bills—above all other issues—was determined by party dictate, by the advice of those who supposedly "knew," by pressure from lobbyists of every stripe, and frequently just by old-fashioned logrolling.

There was one other important reason why money matters proved to be difficult. By 1969 less than 10 per cent of total expenditures was devoted to the

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[112] Indianapolis *Times*, March 7, 8, 1939, March 7, 1945, March 10, 1949, March 11, 1953, March 10, 1959; Indianapolis *News*, March 9, 1955; Indianapolis *Star*, March 12, 1957.

types of programs that traditionally had dominated budgetary considerations. These traditional areas included funding for general government (*i.e.*, the basic functions of the legislative, executive, and judicial branches); funding for public safety and corrections; benevolent institutions; and higher education. In earlier eras prisons, schools for the handicapped and the delinquent, hospitals, colleges and universities, were all subjects of major legislative attention. After 1930 these basic institutions were in place. They did not, however, become less important. Indeed, some, like the universities that expanded onto extension campuses and regional campuses, grew. But the traditional institutions became less prominent in the larger picture of taxes and appropriations after the Great Depression. Legislators paid far more attention to the dedicated fund and the size of the surplus to be placed in the general fund than they did to the traditional, particular areas.

By 1969 hundreds of millions of dollars were dispensed annually from both funds. The dedicated fund was the more complicated of the two. All funds earmarked for a specific expenditure—such as the motor fuel tax which went exclusively for highways—were deposited into it. Ultimately there were hundreds of separate "dedications," many of them involving federal aid. Such aid was customarily reserved for specialized uses such as welfare, education, or highways. The impact on state spending became immense. Federal funding increased tenfold, from $24.2 million annually in 1947 to $251.2 million annually in 1969. Federal funding accelerated most rapidly in the 1960s as a result of new programs such as medical care for the elderly, public housing, and the "war" against poverty. Since the grants were normally contingent upon mandatory matching funds, once the state accepted participation in a federal program the legislature was obligated to provide the necessary additional revenue. Frequently the matching funds came from the state's general fund. This fund received most of the revenue derived from income taxes, corporate taxes, and, after 1963, the sales tax. It was used to finance the vast majority of state institutions, agencies, and divisions, that is, programs not covered by the dedicated fund. As the 1960s unfolded, the General Assembly had to find new sources of revenue if Indiana were to keep abreast of federal aid and meet as well the state's other needs.

The tax changes instituted by the general assemblies from 1961 to 1969 transformed the state's essential revenue structure in much the same way as the changes instituted in the 1930s had. Once again important changes were made in the tax on real and personal property. This tax, climbing steadily since the mid-1940s, reached $6.69 per $100 of assessed valuation by 1962, a 73 per cent increase in ten years. The regular sessions of the first two legislatures of the 1960s responded with two important laws concerning the property tax. In 1961 lawmakers gave the state Board of Tax Commissioners authority to equalize assessments between taxing districts and between classes of property. This power was used to lower property tax rates after 1961 and again after 1969. A second law passed in the regular session of 1963 stipulated that land used for agricultural purposes should be assessed according to its value for that use, regardless of how it might be zoned. Parcels of land zoned for commercial use, if farmed,

would enjoy lower taxes.[113] Further property tax relief was granted by a constitutional amendment passed in the 1963 and 1965 sessions and approved by the voters in the 1966 general election. This amendment exempted household goods and intangibles from the property tax and authorized the legislature to replace the property tax on automobiles with an excise tax. The 1969 session, acting under the authority of this amendment, exempted automobiles from the property tax and imposed in its stead an excise tax effective January 1, 1971. Liabilities were to range between $12 and $192 annually, dependent upon the original value of the car and its age. The tax was to be paid when license plates were purchased, with the revenue remaining in the county where collected.[114]

The marathon session of 1963, when the House and Senate deadlocked for 100 days, produced the most significant tax legislation of the decade. Due to the reduction of the property tax and the increased costs of other obligations assumed by the state, the general fund was depleted. To replenish the fund a series of tax increases and new taxes were enacted. One law exempted individuals and unincorporated businesses from the gross income tax and subjected them instead to a new withholding of 2 per cent on adjusted gross income. Incorporated firms were not exempted from the gross income tax; instead their rates were increased with payments under the gross tax levy allowed as a credit against liability under the net tax. Thus corporations would pay the higher of their tax liabilities under either the gross or adjusted gross income tax. A second law passed at the session imposed a 2 per cent retail sales and use tax.[115] These fundamental changes were enacted, as noted previously, at an extraordinarily long and contentious session.

Less important in terms of its impact on Indiana but a nonetheless historic change in tax laws occurred in 1965 when the legislature repealed the poll tax.[116] The poll tax, which in nineteenth century Indiana was second in importance only to the property tax, came under strong criticism nationally because of its use in southern states to discriminate against black voters. The Indiana General Assembly acted in response to the 1964 ratification of the Twenty-fourth Amendment to the United State Constitution forbidding the use of poll taxes in federal elections.

The changes in tax laws during the 1960s corrected what many perceived as an imbalance at the beginning of the decade when the dedicated fund received more than half of state revenue collections. After the sales tax and adjusted gross income tax were implemented, the balance shifted and the general fund began receiving the majority of state receipts. As a result of a growing surplus in the general fund, lawmakers in the 1970s seized the opportunity to provide further relief in the real property tax. The changes during the 1960s also completed the revolution in taxing and spending begun by lawmakers of the 1930s. Biennial

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[113] *Laws*, 1961, pp. 893-947; *ibid.*, 1963, pp. 426-57.

[114] *Ibid.*, 1965, pp. 1452-53; *ibid.*, 1969, pp. 1805-13.

[115] *Ibid.*, 1963 (s.s.), income tax, 82-112, sales tax, 60-81.

[116] *Ibid.*, 1965, p. 605.

budget projections in 1969 forecast expenditures of nearly $4.5 billion each biennium by the early 1970s. Education (higher education, local education, vocational education, and teacher retirement) was the largest item, accounting for 37.4 per cent of projected outlays. The maintenance of highways and roads and welfare programs each accounted for slightly over 17 per cent of expected expenditures. Miscellaneous expenditures and revenue distributions accounted for 12.5 per cent and mental and physical health programs 7.7 per cent. The pattern of expenditures that had been traditional prior to 1930 (general government, public safety and corrections, and natural resources), and which had accounted for more than half of the budgets of the 1920s, accounted for less than 9 per cent of total projected expenditures as the state entered the 1970s.[117] Such was the legacy wrought by the changes in taxation and spending enacted during the last twenty sessions of the Indiana General Assembly that convened on a biennial basis.

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[117] For an overview of the state revenue structure and expenditures from 1960 to 1974, see Kiefer, *Indiana Public Finance*, 29-36, 56-60.

Chapter 16
The Legislators

During the 1933 session an Indianapolis newspaper published a "poem" about how service in Indianapolis affected a man's sense of self-importance. The verse, written by William Herschell, depicted certain truths about the majority of members at each session regardless of party, not only in 1933, but in the pioneer period and today:

POP'S GOT TH' LEGISLATURE

Pop's got th' Legislature,
Which must be somethin' dread,
'Cause Mom says it's a ailment
Sure swellin' up his head!

He's been up to th' State House,
Mom says, a makin' laws
To wake up Rip Van Winkle
An' de-beard Santy Claus!

He comes home over week-end,
Then struts around th' town;
Mom's been all through his baggage—
He's got a dressing gown!

Pop talks th' queerest language
We've never heard before;
Mom says don't think he's stealin'
Because he "took th' floor!"

He's maybe seen a doctor,
For all he does is pout;
We hear him saying somebody
Cut his amendment out!

Mom tells us not to worry
At his peculiar ways;
This Legislative ailment
Gets cured in sixty days!

Pop sure talks mighty bossy
When men come into call;
One crowd sit in th' kitchen,
Another in th' hall.

Takes good old Mom to stop him,
She says, without a fear;
"You run your Legislature—
I'll make th' laws 'round here!"[1]

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[1] Indianapolis *News*, January 21, 1933.

Native-born Hoosiers dominated those who "got th' Legislature" during the recent modern period, continuing a trend that began in the 1880s, the first decade during which a majority of Indiana lawmakers had been born in the state. Indeed, between 1930 and 1970 more than 80 per cent (1,013 out of 1,258 lawmakers) were born in Indiana and 56 per cent (701 individuals) were natives of the district that they represented. All but ten of the others were born in the United States, including fifty-three natives of Illinois and thirty-five natives of Ohio. The ten foreign-born included three from Czechoslovakia, three from Germany, and one each from Poland, Denmark, England, and Scotland. (See Appendix A, Table 4.) Ancestry is known for 62 per cent (777 lawmakers). As in each previous era, those of German or British descent were most numerous. Two hundred seventy-three of German or Dutch extraction and 252 of English, Scottish, or Welsh extraction accounted for 68 per cent of those whose ethnicity is known. The lawmakers of the era also included eighty-three Irishmen, fifty-five Scotch-Irish, thirty-three of French or Italian derivation, thirty-one whose forebears were Slavic or from eastern Europe, and thirteen Scandinavians.[2]

The mean age for senators during the era was 50.6 years, with the mean rising to 52.4 years during World War II when most younger men were in military service. The mean age for representatives was 49.5 years until the 1960s when it dropped to 46.5 years. The mean age in the Senate also dropped to 46 years at the 1967 and 1969 sessions, the first ones to convene after court-ordered reapportionment. Four senators served at the age of eighty years: Isaac N. Trent, a physician from Muncie, at the 1935 session; J. Walter Vermillion of Anderson, in 1949; Lemuel A. Pittenger of Delaware County in 1953; and Charles E. Clem of Gibson County in 1965. Senators Wilbur A. DeWeese (Allen County, 1939) and Dean V. Kruse (DeKalb County, 1967) both served at the constitutionally minimum age of twenty-five years. Kruse, born September 21, 1941, was the younger of the two by five weeks. DeWeese, who boasted that he was the "Youngest Senator ever elected in Indiana," was born August 15, 1913. Though a successful contractor from Fort Wayne, DeWeese was a tragic figure. At age twenty-eight, while still a state senator, he was convicted of passing a $30 fraudulent check and sentenced to from one to ten years in prison. The sentence was suspended on condition that he serve his country during World War II. On his way out of the courtroom, DeWeese was served with divorce papers. Then, in the spring of 1942, with his business gone and his marriage ended by divorce, DeWeese joined the United States Merchant Marine. On August 30, two weeks after his twenty-ninth birthday, he died at sea; a probable suicide, DeWeese was buried in Cuba.[3]

Martin T. Krueger was eighty-four years old when he represented La Porte County at the special session of 1938 to become the oldest member of the House

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[2] All statistics and tables in this chapter are based upon quantification of the data in *A Biographical Directory of the Indiana General Assembly* (2 vols., Indianapolis, 1980, 1984), Vol. 1, *1816-1899*, Vol. 2, *1901-1984*.

[3] DeWeese file, Centennial History of the Indiana General Assembly, Archives Division, Commission on Public Records, Indiana State Library, Indianapolis.

during the era. Krueger was born November 10, 1853, and since he also represented La Porte County at the session of 1885, he was the last person whose service in the General Assembly spanned both the nineteenth and twentieth centuries. The second oldest representative was Charles H. Young of Fort Wayne who was eighty-two when he served at the 1959 session. A retired civil engineer, Young was born October 4, 1876. Jack A. Stone of Evansville was on furlough from the United States Army when the 1943 session convened. Stone was only twenty-one years old (the constitutional minimum) at the time and he served five days until his furlough ended. He was both the youngest member during the era and the one with the briefest tenure since, after January 14, Stone was absent on military duty.[4]

During an era when rural-based Republicans generally enjoyed longer tenures than Democrats, Democrat Von A. Eichhorn nonetheless enjoyed the longest tenure in the Indiana Senate. He was elected to seven consecutive terms from Wells County and Eichhorn's total of twenty-eight years of service between 1939 and 1965 stands as the longest of any senator during the period. Senator Roy Conrad of Monticello, with six terms and twenty-two years between 1941 and 1963, had the longest tenure of any Republican. Democrat Senator William C. Christy of Lake County served twenty-two years beginning in 1955 and ending in 1977-1978. Twenty-four other senators served tenures ranging from eighteen to twenty years. Four senators served at seven sessions, thirty-three at six sessions. Seven senators served at five sessions, seventy-eight at four sessions. By contrast, two hundred twelve senators (56 per cent of the total) served one term or less (180 individuals one term and thirty-two individuals only one year).

Republican Glenn R. Slenker, Sr., a lawyer from Monticello, served longer in the Indiana General Assembly than anyone else. During a political career that spanned the years from 1929 to 1969, Slenker served at every session except one. In 1932 Claude R. Wickard defeated Slenker when the latter ran for reelection to the Senate. In 1934 Slenker won the House seat in his district and he retained it for the rest of the era. His eighteen consecutive terms in the House between 1935 and 1969 and his forty years of total service constitute the record for legislative longevity in the history of the General Assembly. John W. Donaldson, a Republican lawyer from Lebanon, holds the second longest tenure in the history of the House with fourteen terms. Donaldson first won his seat in 1956, lost it in the Democratic sweep of 1958, but won it back in 1960. Donaldson then held the seat continuously from 1961 to 1986. In contrast to Slenker and Donaldson, 463 of the representatives (46.5 per cent) during the era served only one term; another 219 representatives served two terms, and 123 representatives served three terms. (See Appendix A, Tables 5-6.)

Law and farming continued to be the leading occupations of lawmakers, although the percentage of lawyers and farmers declined from previous eras. Three hundred one lawyers (24 per cent) and 228 farmers (18 per cent) were

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[4] Stone file, *ibid.*; Indianapolis *Times*, January 13, 1951. After the war Stone became a lawyer and, in 1950, he was elected to the state Senate from Vanderburgh County.

numbered among the individuals who served. The rest pursued a wide variety of professions with businessmen, insurance agents, and realtors being the most numerous. During the 1960s, undoubtedly reflecting the increased politicization of the teaching profession during the era, the number of public school teachers increased noticeably, rising to twenty-one individuals in the House and four in the Senate. These twenty-five teachers constituted 68 per cent of the total number who served from that profession during the era. (See Appendix A, Table 7.)

Nearly 40 per cent of the legislators served on active duty in the nation's military forces, including 134 veterans of World War I and 256 veterans of World War II. The World War II veterans included Representatives Jane Ann Noble (Howard County, 1949) and Harriet C. Stout (Marion County, 1955-1957) both of whom served in the Women's Army Corps (WACS). They also included Representative Doris P. Dorbecker (Marion County, 1969-1984) who served in the United States Navy WAVES. Almost without exception, the male veterans of the two world wars joined the American Legion after military service. Twenty-nine lawmakers too young for World War II served in the Korean War. Eighteen lawmakers served in more than one war between 1917 and 1975. (See Appendix A, Table 8.)

Ninety-nine per cent of Indiana's lawmakers between 1931 and 1969 had some formal education and three out of four attended a college or vocational school after high school. Although collectively they attended nearly every public and private college in the state, Indiana University at Bloomington and Purdue University at West Lafayette were the most popular colleges: one hundred eighty-nine legislators received undergraduate instruction at Indiana while ninety-three did so at Purdue. Other colleges attended by several legislators included Butler University (45) and Indiana State University at Terre Haute (45). (See Appendix A, Tables 9-10.)

In addition to the General Assembly, legislators served in numerous other elected or appointed offices. At least 724 lawmakers also held an office on the city or county level, 531 of them before their service in the General Assembly. Three fourths of the 435 who held administrative positions in state government did so after their legislative service. One hundred thirty-five lawmakers served in federal positions at the state level, most of them as employees or administrators of agencies created after 1932. Fourteen legislators served as state or federal judges after their legislative service; one, Senator John M. Ryan (1969-1972), was a state Appellate Court judge before entering the legislature.[5] Two men (Birch E. Bayh, Jr., and William E. Jenner) served Indiana as a United States senator after their state legislative service. One legislator, Earl Wilson, served

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[5] The fourteen include state Appellate Court judges Charles H. Bedwell, George R. Bierly, French Clements, John S. Gonas (chief justice, 1963-67), John A. Kendall, George H. Prime, Russell W. Smith, Hubert E. Wickens, and James B. Young; state Supreme Court judges Richard M. Givan (chief justice, 1974-87), George W. Henley (chief justice, 1955), Donald H. Hunter, and Frederick Landis, Jr. Landis resigned from the state court to accept appointment as judge, United States Court of International Trade, 1965-83. S. Hugh Dillin served as judge, United States District Court, Southern District of Indiana, 1963-.

several terms in the United States House of Representatives between 1941 and 1965 before becoming a state senator in 1969. Twelve others served in Congress after serving in the General Assembly.[6] Claude R. Wickard and Otis R. Bowen were the only lawmakers during the era to serve in a president's cabinet: Franklin D. Roosevelt named Wickard secretary of agriculture in 1940; Ronald Reagan named Bowen secretary of health and human services in 1985. William D. Ruckelshaus achieved near-cabinet status as acting attorney general during the administration of Richard M. Nixon and as director of the United States Environmental Protection Agency during the administrations of Nixon and Reagan. (See Appendix A, Table 11.)

All legislators served as Democrats or Republicans, with Democrats holding a 51 to 49 per cent edge. Despite their slight advantage, however, Democrats controlled both houses only at four sessions (1933, 1935, 1937, and 1965). The parties split control at six sessions (1931, 1939, 1949, 1959, 1961, and 1967); at the other ten sessions Republicans constituted majorities in both houses. (See Appendix A, Table 12.) Political affiliation was a lifetime commitment in that 98 per cent (1,234 individuals) never changed parties. Seven Democrats joined the Republican party, most of them in the 1930s because of disagreement with Franklin D. Roosevelt's New Deal; six Republicans converted to the Democrats, including Merrett R. Monks, the only legislator during the period to serve as a member of both parties. (Monks represented Randolph County as a Republican in the House from 1949 to 1955 and was then elected to the Senate for one term in 1958 as a Democrat.) Stanley S. Gilbert (House, 1935) switched to the Democratic party in 1973 because of the Watergate scandal after a lifetime of service to the Republicans. Gilbert wrote nearly a half century after his one term that "My Legislative experience was a 'beautiful' one—active, productive and extremely educational."[7] Eight legislators affiliated with the Populist, Progressive, or Prohibition parties earlier in the twentieth century before serving in the General Assembly, or with the American party in the 1960s after serving. No other political affiliations were discovered.

An extraordinarily large number (1,191 out of 1,258 legislators) are known to have professed a religious creed or to have attended a church. Only thirty-nine specifically stated that they were not a church member; data regarding religious affiliation were not discovered for twenty-eight others. The Methodist church, with 334 adherents (28 per cent of those whose religion is known), continued to furnish the greatest number of lawmakers as it had throughout the state's history. Roman Catholics constituted the second largest religious grouping with 177 lawmakers, 154 of whom were Democrats. This proportion, buoyed by Democrats from the ethnic groups in Lake County who were overwhelmingly Catholic, constituted almost one fourth of the Democrats who served. It was

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[6] The twelve were John V. Beamer, Adam Benjamin, Jr., Danny Lee Burton, Thurman C. Crook, H. Joel Deckard, David W. Dennis, Winfield K. Denton, E. Ralph Harvey, Elwood H. Hillis, Andrew J. Jacobs, Jr., Earl F. Landgrebe, and John E. Roush.

[7] Monks and Gilbert files, Centennial History, ISL.

by far the largest proportion in either party for any single denomination and was the most noteworthy change in religious affiliation from lawmakers of previous eras. Presbyterians, who had stood second to Methodists during all previous eras, dropped to third place, with 171 adherents, followed by Disciples of Christ or Christian Church (142) and Baptists (76). Denominations represented by more than twenty adherents included Lutheran (56), Episcopalian (45), Evangelical United Brethren (37), and Society of Friends (36). (See Appendix A, Table 13.)

Freemasonry continued as the most popular fraternal affiliation as 636 legislators (50.5 per cent) were Masons. In fact, Masons constituted a substantial majority during each decade until the 1960s. In that decade only 171 lawmakers (44 per cent) were known to be Masons while 216 lawmakers were not affiliated with the order. The decline to less than a majority is explained by the increased number of Roman Catholics in the legislature and by the fact that Masonry was less popular in urban centers which gained increased representation after 1963. Masonry continued to attract fewer lawmakers during the 1970s; 250 of the 360 lawmakers between 1971 and 1984 did not belong to the order. Even though Freemasonry fell to 30 per cent of the lawmakers in the 1970s, the lowest percentage of known Masons in the General Assembly since the 1880s, this percentage still constituted the largest for any single fraternal group amongst lawmakers. Freemasonry also continued to attract lawmakers regardless of political affiliation. Three hundred seventy Republicans (60 per cent of the total number of Republicans between 1931 and 1969) and 267 Democrats (41 per cent of the total number of Democrats) claimed membership. (See Appendix A, Table 14.)

Numerous legislators affiliated with groups other than the Masons. At least one half of the Catholic males belonged to the Knights of Columbus; a substantial number joined the Elks, the Eagles, or the Moose. Insurance benefit organizations and civic improvement or service groups also attracted many. Of the former, the Improved Order of Red Men and the Woodmen were the most popular; of the latter, the Lions, Chamber of Commerce, and Kiwanis.

Typical and Not-So-Typical Legislators

The typical lawmaker of the era was a male who was born, reared, and lived his entire life in the district which he represented. If he served in the House, he was likely to be a farmer and a Republican; if a senator, he was a lawyer and more commonly a Democrat. Most members came from obscurity, were unremarkable as legislators, and returned to obscurity after service in the General Assembly. Karl D. Nottingham (House, 1935, Delaware County) and Ira Clouser (Senate, 1931-1933, Montgomery and Putnam counties) were prototypical. Nottingham was born on a farm in Union Township, on July 29, 1892. He graduated from Muncie High School and attended Purdue University for two years. He married Mary Williams in 1921 and had one child. A life-long member of the Methodist church, Nottingham also belonged to the Masons, the Farm Bureau, and the Indiana Society of the Sons of the American Revolution. He lost for reelection in 1936 and, like 60 per cent of his fellow legislators, never served in the armed forces. Nottingham held no other political office and sponsored

no significant legislation at his one session. He died in Muncie on November 3, 1972.

Ira Clouser was born in Sugar Creek Township, Montgomery County, on October 15, 1874. He attended the common schools, Wabash College for two years, and studied law at Indiana University for one year. He was admitted to the bar in 1902 without a degree. A Methodist, like Nottingham, Clouser was also married with one child. He served as county prosecutor and county and district Democratic chairman before his Senate term. From 1934 to 1949 Clouser was postmaster in Crawfordsville. A member of the Masons and the Elks, he had no military service and sponsored no significant legislation during his one term. Ira Clouser died on January 3, 1959, in Crawfordsville.

Most legislators were similar to Nottingham and Clouser: ordinary citizens whose one or two sessions in Indianapolis marked the acme of their political careers. At least one, and no doubt others, felt that merely being present and voting constituted the essence of lawmaking: Albert J. McCoy, a railroad conductor who represented Madison County in 1939, boasted that the "record will show my presence at all time[s] during the session and voting on each and every roll call." Carson H. King, Jr., of Shelbyville, who served in the House from 1951 to 1957, was remarkable mostly because he undoubtedly holds the record for deciding to become a lawmaker while farthest from home. "I was walking along a road in North Africa one day [during World War II] and I said to myself: 'If I ever get out of this man's Army, I'm going to the Indiana Legislature.'" Burl Johnson, an Adams County farmer, was described by a county historian as "a self-made man of little formal education, but successful in life." Johnson served in the House from 1959 to 1965. "In the legislature he was appointed to the Johnson Grass committee, and took a lot of kidding, many farmers thinking the grass, a pest, was named for him!" A few legislators, while relatively undistinguished as lawmakers, established marks outside of politics. Lowell H. Smith (Henry County, 1961, 1963) invented and copyrighted "The American Heritage Game of the Civil War." Representative John W. Wainwright, a high school band director who served four terms, is remembered as the owner-operator of the Limberlost Summer Music Camp in LaGrange County and for his efforts in promoting the school band movement.[8] Christian T. Lassen, Clyde R. Black, Samuel L. Riely, and Roy Conrad each operated a resort in Indiana; of the four, only Conrad enjoyed a long legislative career.

"Chris" Lassen's father settled near Cedar Lake in 1877 and began to acquire lake front property. In the winter of 1904, when the ice was so thick that "a crew of carpenters" could "work over the water," the younger Lassen supervised the construction of the Lassen Brothers Resort, "Indiana's only on-the-Water Dance Pavilion." Lassen made his dance hall, restaurant, and hotel the favorite summer recreation facility in Lake County until World War II. When he sought political office in 1932, Lassen was best known in his district

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[8] McCoy, King, Johnson, Smith, and Wainwright files, *ibid.*; King quotation, Indianapolis *News*, February 15, 1951.

as the man who piloted a speedboat on Cedar Lake. He served one term as a Democrat at the 1933 session. Clyde Black (Senate, 1941-1947) owned a motel and restaurant where legislators from northern Indiana gathered while traveling to sessions between the early 1940s and 1970. "Under Black, the Ben Hur [Motel] became known as the best eating place in Logansport and many of the state's top politicians stopped there." Samuel Riely operated the Wyandotte Cave and Lodge, one of southern Indiana's premier tourist attractions. He served in the House from Crawford County at the 1947 and 1953 sessions.

Roy Conrad was a career legislator as well as a famous restauranteur. He opened the Sportsman Hotel and Resort on Lake Freeman in 1934 and soon thereafter was known for providing "fine food with excellent service." Conrad entered the state Senate in 1941 and served until he was defeated for reelection in 1964. He was Republican majority leader at several sessions; in 1960 and 1964 Conrad was Nelson Rockefeller's state chairman when the New York governor was a presidential candidate. At Conrad's death, it was recalled that he often repeated two remarks: "The people of Indiana might be better off if our State Legislature some year would meet, accept no pay and not pass a bill," and "Instead of the Legislature meeting for 60 days every other year, we might try meeting one day, every 60 years." Conrad's remarks illustrated a sense of deprecation often encountered in the legislature before the late 1960s.[9]

Four legislators of the 1960s are important because they epitomized Indiana Republicanism during the era. They were Owen L. Crecelius (House, 1959-1963), Earl F. Landgrebe (Senate, 1959-1967), Roy H. Hibner (House, 1969), and Charles B. Kleinkort (Senate, 1969-1972). Each personified in his own way the fiscal conservatism and hard-line anticommunist, pro-American sentiment that characterized conservative Republicans. Crecelius was an army veteran of both world wars, serving as an artilleryman in 1918 and as a colonel from 1941 to 1946. From 1928 to 1960 he taught government at Crawfordsville High School. He was a teacher with strong views, few doubts, and no scholarly quibbles. According to Crecelius notables readily divided into the bad and the good. Hence Woodrow Wilson "was responsible for starting the country down the road to socialism"; Franklin D. Roosevelt was "a phoney intellectual, and a phoney statesman"; Harry Truman "came up in politics through what was probably the most corrupt political machine we have had in America"; Dwight D. Eisenhower was "an appeaser and a middle-of-the-roader"; and Richard M. Nixon's "culminating folly was his announcement [in the early 1970s] that he had adopted the Keynesian Theory of Economics." By contrast, Warren G. Harding was "the genial 'dark horse'" who "made the mistake of appointing some dishonest men to high positions . . . "; Calvin Coolidge "substantially reduced the national debt—an un-heard of procedure in recent times"; and Herbert Hoover, because of character and ability, was one of the greatest men "to have been President." At least one student in 1952 indicated that Crecelius was effective in propagating his view:

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[9] Lassen, Black, Riely, and Conrad files, Centennial History, ISL.

If all teachers were as democracy-conscious and hard-working to try to teach us the truth, we would not need to worry about whether or not our high school students were taught socialist ideas or not.

I will guarantee that all of Crawfordsville High School's 120 graduated seniors of 1951 were well taught in government. Our teacher [Crecelius] had the integrity to point out the lies of a socialist textbook.

Crecelius won his seat in the General Assembly in 1958 and by his own assessment was soon known as a representative who "doesn't pussyfoot about being an ultra-conservative." During his three terms he insisted that just as a family has to do without things it cannot afford, so should government. He was best remembered for helping lead the losing battle in 1963 over the sales tax. Ironically, a former student who Crecelius remembered as "an excellent pupil" cast the decisive vote for the tax—Lieutenant Governor Richard O. Ristine.[10]

Earl Landgrebe was a self-made man who worked as a farm laborer during the Depression. In 1943 this Porter County native founded Landgrebe Motor Transport, Inc., in Valparaiso, a firm with annual gross sales of over $5 million by the late 1970s. In 1959 Landgrebe succeeded to John Van Ness' Senate seat upon the latter's retirement. He summarized his political philosophy for the Indiana State Library in 1963 with these words:

Dedicated to States Rights, Balanced budgets, Freedom and dignity of the individual, Pride in our National Heritage.

As a state senator for almost ten years, Landgrebe was known as a "Dr. No" and a "naysayer" who never once voted to increase welfare spending. He resigned his legislative seat in August, 1968, to run for Congress when United States Representative Charles A. Halleck decided to retire. Landgrebe won the election in a district which remained Republican even during the Democratic New Deal days of the 1930s. A Lutheran of staunch religious convictions, Landgrebe always liked to distribute Biblical tracts. The practice got him into trouble when he visited the Soviet Union in 1972. Landgrebe was seized by Russian police and interrogated after placing copies of the Gospel according to St. Matthew on a counter in a Moscow department store. Although released without further incident, he stands as the only person to serve in the Indiana General Assembly ever arrested by Soviet police. Fierce loyalty to friends and political allies also marked Landgrebe's career. This trait made him nationally known during the Watergate scandal as the one Republican who stood by Richard M. Nixon even after all was lost. "Don't confuse me with the facts," he stated on the eve of Nixon's resignation in August, 1974. "I've a closed mind. I will not vote for impeachment." Three months later Floyd Fithian defeated Landgrebe for Congress, marking the first time in nearly half a century that a Democrat represented the 2nd district.[11]

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[10] Owen L. Crecelius, *Reminiscences of a Small-Town Hoosier* (n.p., n.d.), opinions of presidents, 70-73, letter from student, 63, legislative career, 64-65.

[11] Landgrebe file, Centennial History, ISL; Indianapolis *News*, August 8, 1974; Indianapolis *Star*, August 8, 1978.

Roy H. Hibner served in the legislature after a career as an industrial engineer in Michigan City. Long active in the Toastmasters Club, Hibner was an inveterate giver of patriotic speeches laced with warnings to be on guard lest America lose its freedom. Thomas Jefferson, Patrick Henry, Thomas Paine, George Bernard Shaw, an old German proverb, and Dwight D. Eisenhower were among the notables quoted to prove Hibner's point: only patriotic men and women in government could save the country from communism.[12] Hibner served one term in the House in 1969, the same year that Charles Borromeo Kleinkort entered the state Senate.

Kleinkort served in the Marine Corps during World War II and became a farmer in Newton County after the war. He married Kathryn Ade, a niece of author George Ade, in 1945. He also became director of the George Ade Memorial Association. In a letter to a nephew of Ade in 1962, Kleinkort expressed his concern about "Western Christian civilization":

> The farther we stray from Christian principles the greater the need for more laws and more government to compensate for our misbehavior. As we get more government there is less need for personal responsibility. And I see no reason why this progression would not end up in a totalitarian, atheistic nation. And it probably would not matter much whether such a nation was dominated from Washington[,] D.C., or Moscow.

Kleinkort ran for the legislature in 1968 to complete the term of Earl Landgrebe. He won the seat and is remembered for two things: one, he always wore his Marine Corps tie clasp during sessions and, two, he changed the way senators repeated the pledge of allegiance to the flag. Before his arrival, they always paused as though there were commas before and after "under God" in the phrase "One nation under God with liberty and justice for all." Kleinkort insisted that since there were no commas there should be no pause; senators since his time have repeated the pledge without the pause.[13] Kleinkort died on January 17, 1972, after winning a second term.

Roger G. Wolcott (Senate, 1945-1947) was known for his association with the Indianapolis 500 Mile Race. A lifelong racing enthusiast, Roger was the grandson of White County pioneer Anson Wolcott, founder of Wolcott, Indiana, and state senator at the sessions of 1867 and 1869. Anson's son, Eben H. Wolcott, held White County's seat in the Senate at the sessions of 1901 and 1903. Roger was born in Wolcott in 1893 and educated at Wabash College and Harvard University. A successful investment broker, he settled in Indianapolis in 1934 and became active in Republican politics. He followed his grandfather and father to the state Senate in 1944 when he won election to that body from Marion County. After his legislative service, Roger Wolcott became one of the best known sponsors of cars in the Indianapolis 500. His close friend, Anton (Tony) Hulman

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[12] One of Hibner's speeches, "What Price Freedom," is a good example of garden variety Indiana political thought. Hibner file, Centennial History, ISL.

[13] Kleinkort to George Ade Davis, February 18, 1962, in Kleinkort file, *ibid.*; author interview with President *pro tempore* Robert D. Garton, August, 1985. Garton served in the Senate with Kleinkort in 1971.

of Terre Haute, purchased the Indianapolis Motor Speedway in 1946, and a Wolcott Special was entered in almost every race between then and 1958, the year Roger Wolcott died.[14]

Although the number of legislators who had written books declined from the previous era, several lawmakers were also writers. John L. Niblack (Senate, Marion County, 1929-1931) and E. Ralph Harvey (House, Henry County, 1943-1947) both wrote lively autobiographies after careers in public service. Niblack's *The Life and Times of a Hoosier Judge* was published in 1973; Harvey's *Autobiography of a Hoosier Congressman* appeared in 1975. Edgar D. Whitcomb (Senate, Jennings County, 1951-1953) wrote the best known work of nonfiction by a legislator. The future governor's *Escape from Corregidor*, an account of his experience as a Japanese prisoner during World War II, received national attention when it was published in 1958. Thurman C. Crook (House and Senate, St. Joseph County, 1939-1945) wrote a textbook, *Simplified Mechanical Drawing* (New York, 1928), while teaching mechanical arts on the secondary school level. Wesley S. Harris, Sr. (House, Knox County, 1953), a former coal miner who taught industrial arts at Indiana State University, wrote a coal mining textbook for use in his classes. William E. Treadway (House, Owen County, 1935-1937) wrote a biography of Cyrus K. Holliday, the railroad magnate. Treadway also authored books and articles on law. A few legislators, such as Milford E. Anness (Senate, Franklin County, 1947-1955), tried their hands at fiction. Anness' account of Indian life during territorial days in Indiana, *Song of Metamoris*, was published in 1964. Only one, however, enjoyed some success as a novelist.

Representative Joseph L. Hensley, a lawyer from Madison, was elected as a Democrat in 1960. Hensley had a natural talent for imaginative writing and was especially interested in science fiction and murder mysteries. He became the first Indiana lawmaker since Booth Tarkington to write a novel based upon his experience in the General Assembly. Hensley's *Legislative Body*, published for the Crime Club of America in 1972, is set during session time in Indianapolis.

In the book, Representative "Jim Robak" (Hensley), a freshman from "Mojeff County" (Jefferson and Scott counties), stays at the "Blue Hotel" (Claypool) in "Capital City" (Indianapolis). This hotel was the favorite with legislators because it housed them at "give-away rates" and made up the difference by charging lobbyists "exorbitant rates." The hotel was also noted for hospitality rooms where thirsty legislators congregated and, as Robak says, "I was a thirsty legislator." At the beginning of the session Robak is named chairman of the judiciary committee and shortly thereafter a lobbyist is murdered in the hotel. Robak, a sort of legislative sleuth, discovers between the bustle of the session and night life in the hotel that the killer is one of the most influential members of the General Assembly. The story unfolds in an atmosphere of members drinking and womanizing, trading votes, and sometimes taking bribes. Hensley portrays one tactic used by lawmakers who want to be absent when the roll is called on a controversial bill. They go "skating" (*i.e.*, intentionally absenting themselves

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[14] Wolcott file, Centennial History, ISL.

from the House chamber). According to the novel "a wise and provident God" had placed a bar right across the street from the State House. Over the years this bar became "such a gathering place for reluctant-to-vote legislators that they now call it the 'Skating Rink.'" Near the end of the session, in the scurry of wrapping up the budget and tax bills, Robak tricks the murderer into confessing. The confession takes place on a darkened House floor after a late night adjournment. Robak, unknown to the killer, had secreted various witnesses at strategic locations in the dimly lit room. They sat in the high back chairs turned to the back of the chamber and thus hidden from view. The freshman legislator gets his man and returns to his hotel to bed down one last time with a female companion that he met on opening day. Soon thereafter the budget bill passes and the session ends.[15]

Unlike Booth Tarkington, who was permanently disillusioned with politics after his one session in Indianapolis, Hensley continued to seek public office. He served as Jefferson County prosecutor from 1962 to 1966, lost for state representative in 1966 and 1968, and became a circuit court judge in 1977. Since his legislative service he has also published several short stories and at least ten novels. The latter included *The Poison Summer*, listed as one of the best mystery novels of 1974 by the New York *Times*. Hensley was the most successful writer to serve in the General Assembly during the era.[16]

Blacks, 1933 to 1986

Of the forty blacks who have served in the Indiana General Assembly thus far, thirty-six appeared in the State House since 1933. Six were women. (See Appendix A, Table 15.) Twelve were born in Indiana; most of the rest were born in the South. Twenty-eight of those in the twentieth century served as Democrats; eight were Republicans, as were the four blacks who served in the nineteenth century. Seventeen of the blacks since 1933 represented Marion County; twelve represented Lake County; and five served from St. Joseph County. One of the Republicans, Charles E. Decker, served from Vanderburgh County in 1947; Democrat Hurley C. Goodall of Muncie (House, 1979-1986), a retired firefighter, has been the only black to serve from Delaware County. All professed a religious belief: fifteen as Baptists, twelve as Methodists, the rest as members of various other churches. Ten of the blacks in the twentieth century were lawyers, four were social workers, and three were teachers. Thirty-five attended college; twelve served in the armed forces; and ten were Masons. Thirty-three served in the House, sixteen of them for only one session; seven served in the Senate; four served in both houses. Eight blacks were present at each session from 1981 through 1986, the most ever at a single session.

Blacks with long service included Jesse L. Dickinson of South Bend (six terms in the House and one in the Senate), and William A. Crawford of Indianapolis (seven consecutive terms in the House between 1973 and 1986). Julia

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[15] Joe L. Hensley, *Legislative Body* (New York, 1972).

[16] Hensley file, Centennial History, ISL.

M. Carson of Indianapolis enjoyed the longest tenure among black women: two terms in the House and three in the Senate between 1977 and 1986. Katie B. Hall of Gary served one term in the House and two in the Senate before she was elected to the United States House of Representatives in 1982. She thereby became the first black to represent Indiana in Congress.

Black legislators sponsored many landmark or milestone efforts in the struggle for civil rights in the state since 1933. James S. Hunter of Lake County, who served continuously in the House from 1941 until his death in 1965, enjoyed the longest tenure of any black. He cosponsored the law to desegregate public schools in 1949. The act prohibited separate schools organized on the basis of race, color, or creed, and prohibited racial or creedal segregation, separation, or discrimination in public schools, colleges, and universities in Indiana. The bill passed the House on a vote of 58 to 21, the Senate 31 to 5, and was signed into law by Governor Henry F. Schricker.[17]

Robert L. Brokenburr of Indianapolis served longest in the Senate with five terms between 1941 and 1963. He sponsored two milestone bills at the 1961 session. The first amended an act of 1885 concerning persons entitled to equal accommodations. The amendment defined a place of public accommodation, resort, or amusement as any establishment which caters or offers its services or facilities to the general public, including, but not limited to, public housing projects. Under its provisions hotels, restaurants, and theaters in Indiana were forbidden to discriminate on the basis of race. Brokenburr's amendment passed the Senate 40 to 8 and the House 82 to 9.[18] Brokenburr's second act of 1961 established the Indiana Civil Rights Commission. The law, known as the Indiana Fair Employment Practices Act, defined the commission's purpose as being to prevent or eliminate practices of discrimination in employment and other areas against persons because of race, religion, color, national origin, or ancestry. It passed the Senate 41 to 7 and the House 70 to 20.[19] Both of Brokenburr's bills were signed into law by Governor Matthew E. Welsh.

A recent example of landmark legislation passed at the instigation of black legislators established the Minority Business Commission in 1983. The legislation was authored by Senator Carolyn B. Mosby of Lake County and cosponsored in the House by Representative Hurley C. Goodall. The law provided that the commission must assist businesses owned by members of racial minority groups to obtain state contracts. It stated that such groups included "Blacks, American Indians, Hispanics, Asian Americans, and other similar racial minority groups." The law charged that the commission should establish a goal of at least 5 per cent of state contracts be let to racial minority businesses. The bill passed the Senate 48 to 0, the House 93 to 0, and was signed into law by Governor Robert D. Orr.[20]

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[17] *House Journal*, 1949, pp. 628-29; *Senate Journal*, 1949, p. 814; *Laws*, 1949, pp. 603-7.

[18] *Senate Journal*, 1961, p. 455; *House Journal*, 1961, p. 817; *Laws*, 1961, pp. 585-86.

[19] *Senate Journal*, 1961, p. 454; *House Journal*, 1961, p. 825; *Laws*, 1961, pp. 500-5.

[20] *Senate Journal*, 1983, pp. 65, 619; *House Journal*, 1983, pp. 544, 770; *Laws*, 1983, 1:372-75.

The tradition of blacks helping blacks through legislative initiatives continued at the 1986 session. Black legislators had tried for almost ten years to get legislation establishing a state holiday on January 15 every year to celebrate the birth of Dr. Martin Luther King, Jr. Indeed, a bill sponsored by Representative Charlie Brown (Lake County, 1983-1986) passed on two occasions but the measure was refused a hearing by the Senate public policy committee. In the closing days of the 1986 session Brown found a way to bypass an unfriendly committee in the other house. He stripped S.B. 72, a measure that exempted fire trucks from certain size and weight regulations, and substituted his King holiday bill as an amendment. The House accepted the amendment and, after wrangling in both political parties in the Senate, a conference committee recommended compromise language accepted by both houses. On March 10, Governor Robert D. Orr signed the bill into law and the Indiana Black Legislative Caucus issued a news release summarizing its feelings:

> Our fondest hope is that passage of this state holiday honoring the life and work of Dr. King will provide an annual occasion when Hoosiers of good will can come together in a celebration of those human values that bind us together as children of God. We are also proud that Indiana has joined 37 of our sister states in honoring this great American by statute.[21]

Women, 1931 to 1986

Eighty-one women have served in the General Assembly through 1986, seventy-one of them since 1931. (See Appendix A, Table 16.) Forty-nine were natives of Indiana. None ever changed political parties: forty-three, including the ten who served during the 1920s, have been Republicans; the other thirty-eight were Democrats. Marion County sent the greatest number (33) to the legislature; Lake County, with twelve women, sent the second greatest number. Allen and Vigo counties each sent four women to Indianapolis, and Vanderburgh and La Porte counties sent three each. Monroe and Tippecanoe counties, with two each, were the only others with rosters including more than one woman. Twenty-four of the women belonged to the Methodist church; sixteen were Roman Catholics. By occupation, thirty-one identified themselves as a "homemaker" or "housewife"; thirteen were school teachers (including two college professors); and five were lawyers. Jane Ann Noble, a twenty-five year old senior at DePauw University when she represented Howard County in 1949, was the youngest woman to serve; Anna Maloney of Lake County, a retired school teacher who was eighty-two years old at the 1972 session, was the oldest. Seventy-one women served in the House, including thirty-nine who served only at one session. Sixteen

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[21] Alan F. January and Justin E. Walsh, *A Century of Achievement: Black Hoosiers in the Indiana General Assembly, 1881-1986* (Indianapolis, 1986), 14-16, quotation, 16; see also "Martin Luther King Holiday Bill: A First Hand Account of Its Legislative Passage, 1986," Hurley C. Goodall file, Centennial History, ISL.

women served in the Senate, including six who were elected after serving in the House.

Julia M. Carson, with two terms in the House and three in the Senate, enjoyed the longest tenure among women. Doris P. Dorbecker of Indianapolis (1969-1974, 1977-1984) and Marilyn F. Schultz of Bloomington (1973-1986) built the greatest tenures in the House by serving at seven sessions; Elsie Barning of Evansville and Nelle B. Downey of Indianapolis served six terms each, as did Anna Maloney and Bernadine (Betty) Malinka of Lake County. Dorothy H. Gardner of Fort Wayne and Joan M. Gubbins of Indianapolis, with twelve years each in the Senate, tied for longest tenure among women in that body.

Tella Chloe Haines (Sullivan County, 1931), Bess Robbins Kaufman (Marion County, 1933, 1937, and 1939), and Roberta West Nicholson (Marion County, 1935), all Democrats, were the only women to serve during the 1930s. Roberta Nicholson, although only serving one term, was one of the most notable members. She was, as the press noted, born among the world of "servants, private schools, country clubs and Junior League."[22] Yet she devoted herself to fighting injustice wherever she perceived it. As a daughter-in-law of novelist Meredith Nicholson, she enjoyed name recognition long before her legislative service. More importantly, she was a feminist at least thirty-five years before feminism became an issue for women in political life. In 1931, at the request of Margaret Sanger, Nicholson spearheaded the establishment of the first birth control clinic in Indianapolis. She thereby was known in her own right as a champion of controversial causes at least a year before she became active politically. In 1932, while serving as a director of the Marion County League of Women Voters, she was elected a delegate to the state convention to repeal the Eighteenth Amendment. She was thirty-one years old and the mother of two children (aged eight and six) when she arrived at the State House in January, 1935. Nicholson described her occupation as "Housewife" when she completed a questionnaire for the Indiana State Library. Under ordinary circumstances, as the only woman at the session, she would have garnered some attention. Since she was also able, exceptionally articulate, and attractive she was a center of attention. The controversial issues she espoused and her liberal views made her the leading celebrity at the 79th General Assembly.

Nicholson rejected critics who argued that she neglected family and children by running for office and serving in the General Assembly. "I don't spend any more time away from my children than other mothers who play bridge and go to luncheons all the time," she told the Indianapolis *Star*. "Being in the legislature is simply swell!," she concluded ingenuously. Her tack was different with male colleagues who manifested an attitude of "wasn't it cute of her? She's got a bill, she's going to introduce it just like a man. Isn't that darling?" When this happened, Roberta Nicholson restrained herself, well aware of the novelty of her position: "I could not offend them. So I would just bat my eyelashes and

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[22] Indianapolis *News*, May 1, 1979.

beam at them and act as if I thought it was the way I wanted to be treated."[23]

Representative Nicholson introduced her pet measure, a bill for an act to abolish civil causes of action for alienation of affections, on January 21, 1935. "I am firmly convinced that most of the actions for breach of promise and seduction have extortion as their chief motive," she said in defense of the bill. She added that her intent was to help women adapt themselves to the "equal rights" they enjoyed. Nicholson's bill, dubbed the "anti-heart balm" law by the press, sailed through the House 87 to 7. It stalled in the Senate, however, because lawyers who made heavy fees keeping such suits out of the courts opposed it. President *pro tempore* J. Jacob Weiss was such a lawyer and he intended that the bill would die. Nicholson got Lieutenant Governor M. Clifford Townsend to hand the bill down while Weiss was absent on March 7 and the bill passed 31 to 15. The Nicholson act, which the Indianapolis *Times* said "would take the 'diggers' off the 'gold standard' on the theory that broken hearts could not be mended by generous applications of 'heart balm,'" became law.[24]

Nicholson devoted her life after legislative service to various causes. For example, while organizing recreational facilities for servicemen stationed in the Indianapolis area during World War II, she discovered black soldiers were barred from most hotels. She took the lead in establishing and furnishing a combination dormitory-recreation hall where blacks were welcome. "As usual," said the Indianapolis *Star* some years later, "when she saw a social wrong, she tried to do something about it."[25] She also helped change Hoosier mores. Before her time, subjects such as birth control and venereal disease were euphemistically disguised under the rubric of "social hygiene." These subjects were not the kinds of things open to public discussion in Indianapolis, or in Indiana. By taking the lead as founder and director of Indianapolis Planned Parenthood and as executive secretary of the Indianapolis Social Hygiene Association, she forced public debate on such matters. Thanks to her leadership, the Parent-Teachers Association of Indiana also became a more effective organization while she was state vice-president. In addition, she founded the Juvenile Court Bipartisan Committee that evolved into the Juvenile Court Advisory Council in Marion County, and she served as a director for the Indianapolis Children's Bureau and the Child Welfare League of America.[26] Roberta West Nicholson, then, was a precursor of those who appeared in the 1970s as champions of women's liberation and the Equal Rights Amendment. No other woman quite like her served in the Indiana General Assembly during the first half of the twentieth century.

While Nicholson prefigured the modern, liberated feminist in the state legislature, her opposite also served. Championing the traditional roles of moth-

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[23] Indianapolis *Star*, January 16, 1935; Roberta W. Nicholson oral history interview, 2nd ms., 56, Indiana Division, ISL.

[24] Indianapolis *Star*, January 22, 1935; Nicholson oral history interview, 2nd ms., 52-54, Indiana Division, ISL; Indianapolis *Times*, March 8, 1935; *House Journal*, 1935, p. 298; *Senate Journal*, 1935, p. 1128; *Laws*, 1935, pp. 1009-13.

[25] Indianapolis *Star*, October 24, 1982.

[26] Nicholson file, Centennial History, ISL.

erhood and the idealized family, and generally against birth control clinics, such conservative women legislators abhorred homosexuality and vociferously opposed the Equal Rights Amendment. Speaking and acting under the banner of the "Moral Majority," such a woman entered the Indiana State Senate in 1969 in the person of Joan M. Gubbins.

Joan M. Barton was a student at the Mary Burnham School for Girls in Northampton, Massachusetts, in the 1930s when Roberta Nicholson first crusaded for women's rights. In 1949, while attending the University of Illinois, Barton married Dale George Gubbins. The family settled in Indianapolis in the 1950s and Joan Gubbins entered politics in 1964 as research chairman of the state Goldwater for President Committee. After Goldwater's defeat, she served as a Republican precinct committeewoman and delegate to several state conventions. She was elected to the Senate in 1968 and reelected in both 1972 and 1976 on the strength of her anti-feminist stance. Gubbins entered the legislature just as the feminist movement was becoming a force in American life and the United States Congress stood poised to add the Equal Rights Amendment (ERA) to the United States Constitution. This proposed amendment, which stated that "Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex," engendered the most emotional fight in the General Assembly since the struggle over prohibition in the 1920s. The issue burst upon the legislature in 1973 and, from the start, ratification enjoyed bipartisan, majority support in the House. The fight over ratification thus centered in the Senate where Senator Gubbins became the unquestioned leader of the "Stop ERA Movement."

Gubbins foresaw several undesirable consequences if the states ratified ERA. In 1973 she cited studies in law journals and by congressional committees that proved, she said, women would be drafted and forced into combat. Also, according to Gubbins, if ERA became part of the Constitution boys and girls in public schools would be forced to share the same rest rooms.[27] As the General Assembly moved toward "final readings" before adjournment, proponents of ERA invited state senators to a luncheon on March 17 in a last-ditch effort to sway votes. Three days earlier, opponents upstaged the luncheon by having "the great silent majority of Indiana" deliver a freshly baked loaf of bread to each senator. "We don't have any secret sponsors or anonymous donors to pay the bill for glamorous entertainment for you," said an accompanying note. "Our efforts, like our bread, are homemade in our kitchens from our own resources, and they come to you from the heart."[28] The Senate adjourned without ratifying the amendment in 1973 and Gubbins prevailed until 1977 before losing her battle by one vote. She lost because she could not counter direct intervention on the question by the office of President of the United States.

On January 18, 1977, Democratic Senator W. Wayne Townsend switched from "No" to "Yes" after receiving a phone call from President-elect Jimmy

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[27] For typical comments, see "How Would ERA Passage Affect Indiana And Laws," Indianapolis *News*, February 2, 1973.

[28] *Ibid.*, March 15, 1973.

Carter and his wife Rosalynn. The Indiana House had already passed the measure and after a two-hour debate the Senate concurred by the razor-thin margin of 26 to 24. Indiana thereby became the thirty-fifth and last state to ratify the amendment. Before the vote Gubbins again raised the specters of increased sexual deviance, female soldiers, and motherless children if the measure passed. The best way to gauge the worth of ERA, she said, "is to examine the goals of the homosexual and socialist organizations which support it."[29] Despite the action by the Indiana General Assembly, the ERA fell three states short of ratification. When the Nebraska and Tennessee legislatures both voted to rescind their actions of approval, Gubbins persisted. In 1978 and 1979 she supported unsuccessful but bitterly contested recision moves by the Indiana legislature.[30]

Senator Gubbins was one of the more media-oriented lawmakers of the 1970s. At the 1977 session she resorted to shock tactics in an effort to discredit Planned Parenthood and sex education programs in the public schools. Her ploy was to present a showing for fellow legislators in the Senate caucus room of a film entitled "About Sex." The film was distributed by Planned Parenthood and depicted, among other things, acts of homosexuality and lesbianism.[31] Due to the extensive press coverage, Senator Gubbins made her point. The next year, in an effort to force a rescind-the-ERA vote, Gubbins engineered one of the most spectacular and most controversial publicity stunts in the history of the legislature.

Gubbins' strategy in 1978 was more graphic and more shocking by far than anything that preceded it. The senator had been a delegate to the federally funded International Women's Year (IWY) convention in Houston, Texas, in October, 1977. She returned to Indianapolis with "large quantities of lesbian, pornographic, Socialist and Marxist materials" selectively gathered at the conference by herself and some other delegates. Gubbins and some of her co-workers then prepared a kit of the more explicit materials for each member of the General Assembly. On February 7, 1978, the State House sprang to life as the senator opened a "For Adults Only" display of the IWY materials. Soon the state was embroiled in a dispute about pornography versus First Amendment rights of free speech. In an ironic, and almost unbelievable, reversal of her traditional role, the conservative Gubbins found herself accused of promoting obscenity and immorality.

The exhibit opened on Boy Scouts Day at the Capitol and, according to the press, at least one scout got in for a peek despite a sign that stipulated "No minors allowed." Senator Julia M. Carson, a feminist adversary of Gubbins, cited state laws against obscenity in an effort to force removal of the display. Since Governor Otis R. Bowen was out of town, Carson conferred with Lieutenant Governor Robert D. Orr, who declined to intervene. She then checked with the local office of the United States Department of Justice and with the Marion

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[29] Indianapolis *Star*, January 19, 1977.

[30] "D-E-A-D Issue Returns," *ibid.*, January 14, 1978; "Senate Panel Votes to Nullify G.A. Ratification of ERA," *ibid.*, February 6, 1979.

[31] For details, see exchange between feminist columnist Diane Frederick and Senator Gubbins in Indianapolis *News*, February 15, 21, 1978.

County prosecutor's office. Spokesmen for both said the display was a "state matter." By nightfall, the Indiana Department of Administration, which has jurisdiction over state buildings, ordered the display removed. Gubbins refused, saying only the governor could issue such an order. Bowen returned the next day, visited the display, and told the press some of the materials were "offensive." Nonetheless, after conferring with Attorney General Theodore Sendak, Bowen confessed to having "no desire to interfere with the constitutional rights of any citizen to express his or her positions on public issues." For her part, Gubbins called a press conference and announced it was embarrassing to have to put on the display. "Most of the materials . . . disgust us because some are filthy," she said. "The feminists are using an enormous amount of tax dollars to fund their attempts to destroy the moral values and traditional institutions that most Americans respect."[32]

The display, with Gubbins' approval, came down on February 9. Although newspaper and television coverage continued for two more weeks, the State House returned to normal. Senator Gubbins, accused of misrepresenting feminism by misrepresenting the IWY, paraphrased "a familiar quotation from literature" in defense of her action:

> I speak the truth.
> I make the law.
> I know what I know,
> and I saw what I saw.[33]

While Roberta Nicholson and Joan Gubbins exemplified, in exaggerated form, the liberal Democrats and conservative Republicans who have served as female lawmakers, few if any of the other women through 1986 were as outspoken as these two. As a general rule, the Democrats were liberal on social issues and women's liberation while Republican women tended toward conservatism on such questions. As the cases of Democrat Representative Anna Padberg Smelser (St. Joseph County, 1953-1955) and Republican Representative Harriette Bailey Conn (Marion County, 1967-1969) show, however, such ideological and political stereotyping can be misleading in describing female lawmakers.

Anna Smelser, a Roman Catholic, was educated in parochial schools and graduated from Maryville College of Saint Louis University in 1935. Active in the Democratic-Farmer-Labor party in Minnesota in the mid-1940s, she moved to South Bend, Indiana, in 1947 when her husband, Marshall Smelser, became a professor of history at the University of Notre Dame.[34] Prior to running for office, Smelser joined the League of Women Voters and was a charter member of Americans for Democratic Action. The latter was a group of reform-oriented intellectuals whose aim was to make the Democratic party more liberal. During

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[32] *Ibid.*, February 8, 9, 10, 15, 21, 1978.

[33] *Ibid.*, February 21, 1978.

[34] Professor Smelser was a member of the Advisory Council to the Select Committee on the Centennial History of the Indiana General Assembly from the council's inception until his death in 1977.

her two terms in Indianapolis Smelser was openly aligned with the liberal wing of the Democratic party. Then, after the United States Supreme Court legalized abortion in 1973, she became a leader in the pro-life movement. In the 1970s she was a cofounder of St. Joseph County Right to Life, a charter member of Indiana Right to Life, and chairman in 1980 of St. Joseph County Political Action for Life. A liberal on questions of social justice and welfare legislation—she is a member of the Catholic Council for Interracial Justice—Smelser nonetheless allied herself with the "Stop ERA Movement" because of the abortion issue.

By contrast, Harriette Bailey Conn—a black and a member of such liberal organizations as the National Association for the Advancement of Colored People, Indianapolis Human Rights Commission, and the Greater Indianapolis Women's Political Caucus—was a lifelong Republican. She also was an attorney "who had the self-discipline to obtain a law degree while rearing seven children and successfully serving as a deputy state attorney general, deputy prosecuting attorney, state representative, and assistant city attorney." At her first session in 1967 she sponsored a bill to legalize abortion in Indiana that only failed to become law because Democratic Governor Roger D. Branigin vetoed the measure.[35]

Whether liberal or conservative, Democrat or Republican, prior to World War II there was usually only one woman legislator present at each session. The war changed this irrevocably as the number grew to seven at the 1943 session and to eight in 1945. As women lawmakers became more numerous and melded into the legislative landscape, it became rare for the press to single them out just because they were women. From 1947 through 1967 their numbers fluctuated between a high of seven women at four sessions to a low of three women in 1963. The World War II high of eight women was equaled in 1969 at the last biennial session. The number of women per session increased steadily during the 1970s and reached eighteen at the 1986 session, the highest number thus far.

Life in Indianapolis

Over the years legislators traveled by any number of means to sessions of the Indiana General Assembly. In the nineteenth century they walked, rode horseback, came by wagon, stagecoach, or carriage, by canal boat, and by railroad. In the twentieth century the interurban, the railroad or bus, and then the automobile provided passage to and from the capital city. With but rare exceptions, legislators converged on Indianapolis between 1931 and 1969 by automobile. The notable exception occurred during World War II when most lawmakers traveled by train. In 1943 and 1945 gasoline rationing, the lack of spare parts, and patriotism made travel by car more difficult and less attractive. A few traveled by train or bus at other times because they were either too old to drive a car or too poor to own one. Representative Martin T. Krueger, an octogenarian

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[35] Smelser and Conn files, Centennial History, ISL; "Harriette Conn, Hoosier In Profile," Indianapolis *Star Magazine*, June 24, 1973, p. 41.

who served during the 1930s, was one who preferred to travel by rail: an attorney for the Michigan Central Railroad, he usually arrived from Michigan City by train. Senator Charles F. Fleming (Lake County, 1943-1947) was another who preferred to go back and forth by train. The fare on the Monon Railroad from Hammond to Indianapolis was less than $3, which appealed to Fleming who earned only $8 a day at his regular job. Jesse L. Dickinson, a black representative from South Bend in the 1940s and 1950s, made his trips by bus. At least one legislator sometimes flew to sessions. H. Jack Mullendore, who entered the House from Johnson County in 1965, was a World War II Navy aviator. After the war he became a professional pilot and owned an airport and flying service in Franklin. Mullendore was probably the first lawmaker to commute by plane.[36] The overwhelming majority of lawmakers found travel by bus inconvenient, and travel by airplane expensive. After 1946, travel by train became more difficult as the popularity and availability of private automobiles increasingly drove railroads out of the passenger business. By the mid-1950s railroad service to Indianapolis as a practical mode of travel ceased to exist. By then, almost every lawmaker either owned his own automobile or could hitch a ride to the capital.

Ever since the Claypool Hotel opened on the northwest corner of Illinois and Washington streets in 1903, upon arriving in Indianapolis legislators flocked there as if drawn by a magnet. This remained the case from 1930 until the late 1950s and was true whether lawmakers were Democrats or Republicans, and whether they lived at the hotel or somewhere else during the session. The evidence of the preeminence of the Claypool is overwhelming. Both parties maintained state headquarters in the facility year round. Newspaperman Robert K. Kyle, who covered the General Assembly for more than three decades, said that any book about Indiana politics should have a chapter entitled "I'll Meet You at the Claypool." Several Hoosier politicians substantiated Kyle's view. Von A. Eichhorn, who served twenty-eight years in the Senate, stayed at the Linden Hotel on North Illinois Street in 1939 "because it was cheaper." In 1941 Eichhorn switched to the Claypool because he wanted to know what was "really" going on in the General Assembly. Ira J. Anderson, who served from Perry County in the 1930s and again in the 1950s, agreed with Eichhorn. When Anderson first went to Indianapolis he stayed with in-laws, and then in "outlying" hotels. But he found himself going to the Claypool at night and so he moved. "You had to be there to know what was going on," concluded Anderson. Ida R. Wilson (Warrick County, 1943) discovered as others had that she could walk half a block from the back door, cross the street to the State House, go just a few steps to the basement entrance and then up the elevator to the House. Jesse L. Dickinson, who could not rent a room at the Claypool until the 1950s because he was black, nonetheless found it necessary to stop by:

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[36] Krueger and Mullendore files, Centennial History, ISL; Fleming oral history interview, 1st ms., 28-29, Indiana Division, ISL; Dickinson oral history interview, 174, *ibid.*

There was something pertaining to Indiana government that was going on . . . around the clock, one way or another, if it wasn't anymore than one of the parties in the lobby; . . . and anybody in Indiana politics would go through that lobby at some time or another. You had a better chance to see whoever you wanted to see.[37]

In 1954 the murder of a young girl whose body was stuffed in a dresser drawer damaged the Claypool's reputation. It did not lose favor with lawmakers, however, until downtown Indianapolis declined in the 1960s.

The Lincoln Hotel, directly across Washington Street from the Claypool, was the second most favored hotel. Charles M. Maddox, who served twenty years in the Senate from Benton County, admitted that the Claypool was "really the center" of legislative activity. But Maddox preferred the Lincoln because it was quieter and catered to people who were more conservative in their habits, *i.e.*, people who wished to avoid the constant round of parties, hospitality suites, and card games at the Claypool.[38] According to Maddox, John Van Ness and D. Russell Bontrager, both men who enjoyed long tenures in the Senate, were two other Republicans who preferred the Lincoln. In addition to the Claypool and Lincoln hotels, the Columbia Club on the Circle continued to attract numerous Republicans while many Democrats found shelter at the Indianapolis Athletic Club. Lawmakers who did not stay at a leading hotel or club could choose from several lesser hotels or boarding houses within a mile of the State House.

Most lawmakers who lodged in such places did so because they were cheaper; black legislators during the first three decades of the era selected lesser facilities because they had no choice. Blacks in Indianapolis were not welcome at any downtown hotel or private club and could not dine at downtown restaurants before the mid-1950s. All of the better public accommodations pursued a policy of "Patronage: Whites Only Solicited." Jesse L. Dickinson has left an account of what race prejudice meant for black legislators. He recalled the special trials and tribulations encountered by all blacks until the civil rights movement alleviated the more blatant barriers of racism.[39]

Dickinson's difficulties started when he was refused service at the diner in the Logansport bus stop while traveling to his first General Assembly. He was frustrated because even in the South a black could eat at restaurants that serviced Greyhound, Trailways, and other commercial carriers. The situation was no better when Dickinson traveled with white legislators in a private automobile. Once while returning home in a car driven by Senator D. Russell Bontrager of Elkhart, a restaurant in Rochester refused to serve Dickinson. Bontrager demanded to see the owner and informed him that Dickinson was a member of the Indiana General Assembly. The owner replied "I don't care if he is President of the

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[37] Kyle oral history interview, 1st ms., for information on the hotel, 32-40, quotation, 31; Eichhorn oral history interview, 1st ms., 81-86; Anderson oral history interview, 1st ms., 209-10; Wilson oral history interview, 1st ms., 48; and Dickinson oral history interview, 1st ms., 172, all in Indiana Division, ISL.

[38] Maddox oral history interview, 4th ms., 191-92, *ibid.*

[39] Unless otherwise noted, the account of Dickinson's experience is based upon his oral history interview, *ibid.*

United States, he will not be served." The legislators walked out and Dickinson had a new tag line every time he opposed a bill at his next session: "I don't care if he [the sponsor of the bill] is President of the United States," said Dickinson in explaining why he was voting "no." In Indianapolis Dickinson found the only place he could eat downtown was at the snack bar in the State House basement. Otherwise he had to eat at one of the black restaurants near the Walker Building on Indiana Avenue, about six blocks from the Capitol.

By contrast, white legislators could choose from the finest restaurants in town, many of them within four blocks of the State House or their hotel. In addition, the off-floor agenda at every session abounded with special occasions where food was served. A bipartisan "Good Will Breakfast" in the Riley Room at the Claypool Hotel in 1943 was one such affair. "In typical Hoosier pitch-in fashion," lawmakers gathered for "some serious talk and plenty of old-fashioned Hoosier neighborliness." Every item on the menu was furnished by a member of the session: Speaker W. Hobart Creighton, owner of one of the nation's biggest poultry farms, supplied the eggs; Representative Jesse C. Andrew, Sr., a hog breeder from Tippecanoe County, provided the bacon; the executive secretary of the Indiana Bakers Association donated the bread; a dairyman provided the cream; a canner the tomato juice; an orchardist the apple juice; and a Frankfort grocer the coffee. The Democratic and Republican state chairmen spoke at the affair, with the Republican moving that "the breakfast be made a daily affair for the remainder of the session."[40] Dickinson, a freshman representative from St. Joseph County in 1943, did not participate in this display of "old-fashioned Hoosier neighborliness"; blacks could not eat at the Claypool Hotel.

While Dickinson found the restaurant situation for blacks bad, lodging conditions were worse. When he arrived in Indianapolis he stopped first at a segregated YMCA on Senate Avenue. He found the place infested with bedbugs and took a room in a house on California Street run by the mother of a black dentist. Although the room "wasn't pleasant," it was clean and he remained there until the downtown hotels were desegregated. According to Dickinson, the Claypool was the first downtown hotel to accept blacks as guests. It lifted the race ban in 1955 when the Congress of Industrial Organizations scheduled a convention there and threatened to cancel the meeting unless black members of the union could stay in the hotel.[41] Although a few other hotels and some restaurants slowly followed suit, downtown Indianapolis did not approach full integration until the 1960s. Food and lodging equal to that which white legislators accepted as a matter of course became available to blacks only after Robert L. Brokenburr's public accommodations bill became law in 1961.

The lot of the average white legislator was most probably a happy one for sixty-one days every two years. More than likely he lived in a fine hotel or

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[40] "Bacon, Eggs and 'Ribs' are Menu at Assembly Good Will Breakfast," Indianapolis *News*, February 17, 1943.

[41] Although references to discrimination in restaurants and hotels are scattered throughout Dickinson's interview, see especially 13, 14, 171, 174-75.

club, took his meals in first class restaurants, and could choose among an almost endless array of special parties and banquets. Lobbyists for both private and public interest groups saw to it. Thus, regardless of his station in private life, a lawmaker was assured of living the good life after his work day in Indianapolis was ended. Indeed, if he was neither scrupulous nor conscientious, he might live an indulgent life. This had been true during all eras and it remained true between 1930 and 1970.[42] At the State House, however, where the everyday business of enacting laws was conducted, the legislative life was quite different. Here working conditions were physically discomforting through most of the era. Sometimes they were intolerable.

The 80th General Assembly celebrated fifty years of legislating in the "new" State House at the 1937 session. During that half century there had been no basic modifications of the legislative chambers. Changes in the arrangement of the building were made to accommodate the growth of state government from about fifteen divisions with a few hundred employees in 1887 to over 100 divisions with more than 9,000 employees by 1937. The "improvements" included balconies where clerks perched in once palatial offices. As departments spilled into corridors, a half dozen temporary structures were erected around the marble pillars for desk space. Some departments moved into the basement where workers were cramped into converted horse stalls and inside rooms without windows. In addition, six "State House annexes" were added. The buildings included the former Medical College of Indiana at the northwest corner of Market Street and Senate Avenue, purchased in 1927 to house the state Board of Health and its subdivisions; the new State Library and Historical Building at the southwest corner of Senate Avenue and Ohio Street, completed in 1934 and in which space was also provided for the state Conservation Department; and a building at 141 South Meridian Street acquired in 1936 to house more than a thousand employees of the Welfare and Social Security divisions.[43]

Conditions did not improve until the State Office Building was occupied in 1960. A reporter covering the 1947 session for the Michigan City *News-Dispatch* wrote that the State House was a dignified and imposing structure when built in the 1880s. "It still is outwardly," he added, "but inside it is a hodgepodge of offices cramped into corridors and cranies [*sic*], both confused and undignified."[44] During the 1953 session the Indianapolis *Star* published a pictorial essay on "Why Indiana Needs A New State Office Building." It showed a corridor packed with rows of filing cabinets containing records of the state's hospitals; debris "collecting rust and dust" in the basement; "fire hazards" of broken furniture, scrap paper, and rags dumped in full view; and temporary

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[42] No evidence was found that women legislators were included in much of the merrymaking. Due to the "double standard" prevalent at the time regarding male and female behavior, women could not have done so and retained respect.

[43] For conditions in the State House in the late 1930s, "Every Nook and Cranny Invaded as State Looks for Elbow Room," Indianapolis *Times*, July 25, 1939.

[44] "Our Statehouse Should Be In A Fine Setting," reprinted in Indianapolis *Star*, January 29, 1947.

quarters constructed along balcony railings on the third floor for the "Little Hoover Commission." In 1955, the last of the old basement stalls that had provided off street parking for horses in the days when employees traveled by horseback or buggy was converted into office space for the state auditor.[45]

Proposals to alleviate State House overcrowding sometimes reached absurd proportions. In 1957 Clarence T. Drayer was director of the Public Works and Supply Division. At a hearing before the Senate finance committee Drayer proposed a plan that would provide badly-needed office space and reduce "stupid waste of money" in rental of private buildings. The plan? Build four floors across State House rotundas and then partition them into offices. "Some people might be shocked and horrified at ruining the monumental beauty of the Statehouse," Drayer admitted. Nonetheless, he concluded, if the state followed his suggestion it could add 10,000 square feet of floor space and that was "equal to 10 small homes."[46] Drayer was right: some people (including a majority on the finance committee) were horrified. The plan to floor in the rotundas was rejected.

Lawmakers during the 1930s and early 1940s enacted laws in chambers that had not changed physically since the Capitol opened in 1887. Spectators mingled with members on floors covered by carpeting so old that for as long as anyone could remember only the gray canvas back of the once green carpet was visible in aisles and walkways. The result was so dirty that an observer in the mid-1940s recalled "At the end of the day . . . your feet looked as if you had walked in a plowed field." Noise was also a problem since the walls had never been remodeled with a view to improving acoustics. Ventilation was poor and thermostats nonexistent. Consequently, on session days temperatures often varied between extremes of hot and cold and the air was foul. For almost sixty years members complained about these conditions but no action was taken until House members actually faced possible serious injury. In the early 1940s a heavy chandelier fell between the aisles while the House was in recess. Although no one was hurt, the incident started members to thinking about remodeling. In 1945, on February 22, a chunk of plaster a foot square and weighing two pounds plummeted unexpectedly from the ceiling to the desk of Representative Earl B. Teckemeyer. Bouncing off the desk, it hit Teckemeyer in the leg and narrowly missed Jesse C. Andrew, Sr. When the speaker, seeing that no one was hurt, wanted to get on with business Andrew demurred: ". . . we're scared to death," and the House adjourned for the day. Before the session ended funds were appropriated to remodel both chambers.[47]

Four years later and at a cost of $750,000, lawmakers convened on January 6, 1949, in new chambers transformed almost beyond recognition. Both houses

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[45] *Ibid.*, February 23, 1953; "No More Stalling," Indianapolis *News*, May 25, 1955.

[46] "Statehouse: Rotunda Space Going to Waste?," Indianapolis *Times*, January 22, 1957.

[47] For descriptions of the two chambers before remodeling, see Charles R. (Charlie) Brown oral history interview, mss. 1, 2, 3, *passim*, quotation on "plowed field," 2nd ms., 46; for chandelier falling, Charles T. Miser oral history interview, 1st ms., 29-30, 39-40, all in Indiana Division, ISL; for plaster incident, Indianapolis *Times*, February 23, 1945.

sparkled with plush carpeting, desks with deep-seated armchairs ($84 each), lounge rooms "designed for comfort," and paneled meeting rooms featuring indirect lighting and the latest in acoustics. The rostrums for the speaker (on the east end of the House chamber) and the president of the Senate (on the west end of the Senate chamber) featured adjustable electric-hydraulic lecterns. The chambers were surrounded with private corridors connecting with leadership offices and four levels of committee and work rooms. Seating in both chambers was arranged in a semicircle to bring members as close as possible to the rostrum. Glass partitions separated the legislative chambers from casual observers and avid lobbyists; new open balconies seating 200 each served those citizens who wished to follow the proceedings attentively. The greatest source of wonderment, for lawmakers and spectators alike, were electric scoreboards which tallied votes instantaneously. According to the button the legislator pressed at his desk, a red light for "nay" or a green light for "aye" appeared opposite the member's name. As the Indianapolis *Times* noted, representatives of the people of Indiana now would operate in "streamlined, plush carpeted, push-button, mechanized, air-conditioned, soundproof, upholstered chambers" in which a speaker could talk in a normal tone of voice and be heard. It was "like stepping from 1890 to 1949."[48]

Except for installation of the controversial Kroll murals in the Senate,[49] there were no further modifications of either chamber until the 1960s. The Capitol exterior underwent a facelift in 1964 when Governor Matthew E. Welsh ordered the structure steamed and sandblasted, the first outside cleaning since 1931. This was followed by an additional, and extensive, renovation in the House between 1965 and 1967. The improvements included installation of the Savage mural depicting the spirit of Indiana and a gigantic chandelier containing 100 light bulbs (one for each representative). By 1967 House members also enjoyed new carpeting, new voting machines, improved lighting, and new chairs and desks. The most important change, from the point of view of comfort, was the installation of improved air conditioning.[50]

The Senate chamber did not become as elegant as the House until the 1970s. When the 99th General Assembly met in 1975, senators convened amidst splendor that had entailed an outlay of $1.5 million. The improvements included scarlet red leather chairs ($367.36 each) for ordinary senators while party leaders sat in blue leather chairs that cost $374.48 each. The floor was covered with red carpeting tinged with gold and black. Desks, which formerly faced west, were angled to face the northwest. Leadership desks were placed in the northwest corner, facing a two-tiered podium of white marble. Off the floor were walnut-paneled offices for party leaders and a members' lounge; equally opulent caucus

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[48] "Legislating, as a business, is getting better," Indianapolis *Times*, December 26, 1948; "1949 Legislators Will Have It Easy," Indianapolis *News*, December 3, 1948, and "Statehouse Speaker Stands Adjusted Hydraulically," *ibid.*, December 9, 1948. For particulars on electronic voting, Indianapolis *Star*, February 4, 1951.

[49] See above, pp. 475-76.

[50] "Beauty Is Only Election Deep," Indianapolis *News*, November 14, 1966.

rooms were placed on the second level outside the principal chamber.[51] Thus, as the 100th session approached, lawmakers in both houses deliberated amidst a grand ambience hitherto unknown to the Indiana General Assembly.

An absence of decorum more in keeping with the raffish disorder of the State House before the splendid rehabilitations persisted into the 1960s. Such behavior gradually faded away until now it is almost completely absent from the legislature. But it took time. High jinks both on and off the floor continued to characterize sessions until the end of the era. They were most common during the last hours before adjournment, but could occur almost anytime. For example, in 1951 actress Mae West was in town for a stage performance. The House extended a formal invitation to Miss West to "come up and see them sometime." Mae responded with a coy note that the General Assembly met in the a.m. and she preferred that the boys come up and see her some evening. "After all, one motion backstage is worth two before the house," she stated.[52] George S. Diener, who cast a baneful eye on such undignified foolishness, recalled that once, before he was speaker, the House was entertained by a sharpshooter who fired into a block of wood held by a scantily-clad girl.[53]

The most raucous conduct was usually saved for the evening of adjournment. In 1935 the press reported that on the last night each house "took on the combined aspects of a madhouse and graduation exercise . . . ." In 1939 Benny Goodman's band played in the rotunda on closing night while legislators generally made fools of themselves. In 1949 the Indianapolis *Times* likened the final session to "a Floor Show and a Carnival." The performers that year included 380-pound Roscoe Scott of Greencastle who was presented a pair of roller skates so he could more easily "skate out of the chamber when he doesn't want to vote either way." They also included Frankie Carle, a bandleader-pianist, who came over from the Circle Theater with his daughter, vocalist Marjorie Hughes. Marjorie sang "Back Home Again in Indiana" accompanied by her father on a spinet piano on the rostrum.[54]

Perhaps the biggest session-ending "Whing-Ding" occurred in 1961. Throughout the evening of March 6 the state championship Greenfield High School dance band played at the south end of the third floor hallway. In front of the band legislators, lobbyists, State House employees, "and a few freeloaders munched from a buffet table and gulped drinks." All evening legislators made "nice" speeches about each other, drank toasts, and one even cried. Glenn Slenker, applauded as dean of the lawmakers for his thirty-two years of service, wept unashamedly. The evening's highlight occurred when a Sheridan High School student performed a hula dance atop the speaker's rostrum. She was introduced

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[51] *Ibid.*, December 30, 1974. Because of the remodeling, the Senate convened on the main floor of the State Office Building during the short session of 1974. *Ibid.*, November 20, 1973. When senators convened on organization day, November 19, 1974, they met in the State House rotunda because the Senate renovation was not completed until the following January.

[52] Indianapolis *Times*, January 11, 1953, describing lighter side of 1951 session.

[53] Diener oral history interview, 3rd ms., 31, Indiana Division, ISL.

[54] Indianapolis *Times*, March 12, 1935, March 7, 1939, March 8, 1949.

as House Bill 34-22-35. Representative Russell W. Housel of Garrett "added to the fun when he chased the grass-skirted cutie across the platform with a toy lawnmower." One of the wire services sent the story all over the United States (including Hawaii)—"much to the embarrassment of some people and much to the enjoyment of some others." According to Charles R. (Charlie) Brown of the Legislative Services Agency, the episode "sort of put a damper on some of the fun things" for a session or two.[55]

The Third House

Since the emergence of representative government in Great Britain, pleaders for special interests have been an integral part of the legislative process wherever republican forms of government were instituted. Indiana is no exception. From the beginning in 1816 the interaction between lobbyists and lawmakers was such that frequently it was difficult to determine which group had more influence in initiating (or killing) bills. Indeed, since the 1850s the press regularly designated the lobby as "the Third House" of the Indiana General Assembly.

Under legislation passed in 1915, each lobbyist had to register with the secretary of state for the privilege of promoting or opposing bills and file a report of expenses. Despite the law, some lobbyists never registered, some never filed an expense report, and many lobbyists and lawmakers held the 1915 law in open contempt. Occasionally someone threatened to enforce the law, as did Secretary of State Crawford Parker in 1953. Nothing came of the threat, however, and in 1961 Parker himself became a paid lobbyist for the Indiana Manufacturers Association. As a reporter characterized the situation in 1965: "There might as well be a sign posted outside the Secretary of State's office reading 'Lobbyists must register here. Violators will not be prosecuted.'"[56] Since the law that required registration with the secretary of state was never enforced, the precise number of lobbyists cannot be determined. Newspapers estimated that they outnumbered legislators by a ratio of two or three to one at most sessions between 1930 and 1970. Since there were 3,000 seats to be filled at the twenty sessions, probably at least four to five thousand special pleaders brought pressure to bear on the 1,258 legislators elected by the people. Lobbyists were numerous enough that one reporter defined the General Assembly as "a large body of lawmakers completely surrounded by an intent group seeking to influence their votes." These were "the members of the 'Third House,' who ply their trade in the Statehouse corridors, on the floor of the Senate and House, [and] in the hotel 'hospitality' rooms."[57]

Most of the men and women who composed the lobby were poised, confident, well-paid, and professional. They represented such groups as the Indiana State

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[55] *Ibid.*, March 7, 1961; Brown oral history interview, 3rd ms., 59, 62, Indiana Division, ISL.

[56] *Laws*, 1915, pp. 5-11; Indianapolis *Times*, February 26, 1961, March 4, 1965.

[57] Indianapolis *Times*, February 17, 1963. This newspaper noted that by mid-February 346 lobbyists representing 139 organizations had registered with the secretary of state.

AFL-CIO, the Indiana State Teachers' Association, the Indianapolis and state Chambers of Commerce, the Indiana Truckers' Association, the Indiana Railroad Association, and the Indiana Farm Bureau Federation. Others were amateurs ("do gooders" according to the professional lobbyists) who worked without pay. These last promoted the interests of organizations like the Indiana Association for Mental Health, the Indiana Association for Retarded Children, or Indiana Right to Life. Whether professionals or amateurs, many lobbyists were effective for the causes they represented. Many also were respected since they offered lawmakers expert knowledge in particular areas.

The professionals, by the very nature of their business, received more attention from lawmakers and the press than the amateurs. The professional lobbyists had lots of money—big spenders included the railroad and trucking lobby—and not all of them were particular about how they spent it. This could be a problem especially for "small town boys coming to the big city" for the first time. Reporter Robert Kyle recalled one legislator victimized by the blandishments of lobbyists during his one term in Indianapolis. He was a senator from a rural county in the 1930s, a "nice fellow" who raised chickens. But "he just went nuts when he got in the legislature" because the lobbyists got to him. "They got him drunk, got him gals . . . he just went to hell."[58]

Freshmen legislators were singled out because they were an unknown quantity. Taylor I. Morris, Jr., of New Castle and William A. Wildhack, Jr., of Indianapolis received special treatment in 1962 when lobbyists beat paths to their doors even before the election. After they won their popularity grew even more and both newcomers were wined and dined regularly. Both men enjoyed the attention during the 1963 session and insisted there was never "even a hint" of an attempt to buy their votes. Morris concluded that he learned "a great deal more about the issues because there are lobbyists." Wildhack concurred: "Lobbyists are a big help in giving you information . . . ." Glenn R. Slenker, Sr., seventy years old, agreed with his freshmen colleagues about lobbyists being useful. "If they're honest, they're helpful," he said. "Some will tell you the truth even if it hurts them." Slenker, who had been in the legislature since 1929, named Robert H. Wyatt of the Indiana State Teachers' Association (ISTA) and James Nicholas of the Indiana Motor Truck Association as the two most effective lobbyists.[59]

A number of newspapermen and politicians with a decade or more experience in the Indiana General Assembly left oral history interviews with the Indiana State Library. With few exceptions, on the subject of the Third House, both groups agreed with Glenn Slenker on two points: one, as a general rule lobbyists

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[58] Kyle oral history interview, 4th ms., 62-63, Indiana Division, ISL.

[59] Indianapolis *Times*, February 17, 1963. Rumors circulated widely in the 1960s that Slenker lost control of his ethics with lobbyists. Charles M. Maddox, who served many years with Slenker, attributed the latter's acceptance of favors in return for votes to two factors: one, Slenker's wife had died; and two, during the last years of his career the attorney from Monticello was neither physically nor mentally capable of performing his duties. See Maddox oral history interview, 4th ms., 198, Indiana Division, ISL.

were helpful to both lawmakers and reporters in explaining proposed legislation; and two, Robert H. Wyatt was one of the most influential lobbyists during the era. Robert Kyle of the Indianapolis *News* articulated the sentiment of most journalists when he said Wyatt was "the greatest lobbyist that ever walked into the State House—the most effective . . . ." Eugene "Jep" Cadou of the United Press and Maurice Early of the Indianapolis *Star*, each with thirty or more years of experience covering the legislature, agreed. They attributed Wyatt's success to the Indiana State Teachers' Association, whose members, under his leadership, behaved like the state Chamber of Commerce—"they gave accurate information." Edward Ziegner of the Indianapolis *News* seconded these opinions when Wyatt was elected president of the National Education Association: ". . . Wyatt is certainly among the top three [lobbyists] in effectiveness, and has been for many years . . . ."[60]

Frank T. Millis first encountered Wyatt as a legislator in 1939 and later as state treasurer, state auditor, and state revenue commissioner. "He was a very efficient operator, I'll say that," said Millis. "Not too popular but he put the pressure on for those teachers and when you've got twenty-five or thirty thousand teachers, that's a powerful force. . . . He was very powerful."[61] Democrat Robert P. O'Bannon, a senator throughout the 1950s and 1960s, supported education because many of his family had been or were teachers. He said Wyatt made it a point to get acquainted with "everybody the minute they landed in Indianapolis in the General Assembly." Wyatt met with legislators a few at a time and made a "low key" presentation of the teachers' point of view. At every session, added O'Bannon, Wyatt understood the school aid formula when most legislators confessed to not understanding it at all. To O'Bannon, Wyatt "was very effective," and "a great guy" for the improved position he secured for Indiana teachers.[62] Republican Charles T. Miser said he once sponsored a bill for Wyatt which liberalized the teachers' pension fund. He received 3,500 letters of appreciation from teachers, more by far than any other lobbyist could have generated.[63] Even Wyatt's enemies in the legislature, and they were numerous, were angry primarily because they believed he represented teachers too well.

Wyatt was born on November 4, 1903, in Allen County. He taught social studies in the Fort Wayne public school system from 1926 to 1938 and was elected president of the local teachers' association in 1931. He became president of the Indiana State Teachers' Association in 1935 and executive secretary in 1938. As executive secretary he lobbied for public school teachers at every session from 1939 until his retirement in 1971. At most of those sessions he used orthodox lobbying methods with extraordinary skill; in 1945 and 1947 he had a special advantage. Wyatt married Margaret Lambert in 1941 and in 1945 Mrs. Wyatt served the first of two terms as a Republican in the Indiana House. Ida R.

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[60] Kyle oral history interview, 4th ms., 75-77, Indiana Division, ISL; "Teachers Assert Wyatt Earns His $25,000 Yearly," Indianapolis *News*, June 24, 1963.

[61] Millis oral history interview, 2nd ms., 92, Indiana Division, ISL.

[62] O'Bannon oral history interview, 2nd ms., 111-14, *ibid.*

[63] Miser oral history interview, 1st ms., 51, *ibid.*

Wilson and Robert A. Hoover, Sr., who both served with Mrs. Wyatt, claimed that she ran for the legislature so she could introduce bills for her husband. Hoover, who was seated next to Mrs. Wyatt, said the executive secretary of ISTA stood outside the railing three feet away and told his wife how to vote.[64] Most of the time, however, Robert Wyatt needed no presence other than his own persistence and the influence of the large organization he headed.

"I represent a good cause, and that's a lobbyist's biggest asset," Wyatt said in 1961 when he claimed to have authored "35 or 40 laws now on the books." He was careful to add "Remember now, I'm not taking credit for them. I've had a lot of help."[65] In a campaign brochure as candidate for president of the National Education Association in 1962 Indiana's teachers' lobbyist *par excellence* was less reticent. He boasted of having partly written and guided through the General Assembly eight minimum salary laws for teachers, ten retirement laws, eight laws for additional benefits, and a law establishing a state teacher training and licensing commission.[66] In his years as executive secretary of ISTA it became one of the most powerful special interest organizations in the state; membership grew from 16,000 teachers in 1938 to 49,000 teachers in 1971. The Indianapolis *News* noted at the time of Wyatt's death "It was because of his efforts that legislators learned to pay attention to teachers' demands for better classrooms, better salaries and better quality of education."[67] No organization maintaining a lobbyist in the Indiana General Assembly could seek a better epitaph for its paid spokesman.

Jim Nicholas, chief lobbyist for the Indiana Motor Truck Association (IMTA) during the era, was described in 1951 as "the man who paves the road in the state legislature for the trucking industry." In 1949 Nicholas was ribbed by other lobbyists for registering and filing an expense report according to the provisions of the 1915 lobbying law. At the next session he did not register, stating that he drew his pay as association secretary and got no compensation for lobbying. Registered or unregistered, Nicholas was described in 1961 as "the Pearl Mesta of the Indiana General Assembly" because of the operation he ran from the Claypool Hotel. In the latter year Nicholas presided in the "Truckers' room" every session day from 5 p.m. "until the last legislator calls it a night—or a morning." His room provided facilities for card games, drinks mixed to order, and a private telephone. "I don't lobby up here," Nicholas claimed. "Of course, if a legislator brings up the subject, I'm happy to talk to him." The IMTA room was the best known of the dozens of hospitality rooms at every session. The Sheriffs' Association, Fraternal Order of Police, County Clerks, Railroad Association, AFL-CIO, and Firefighters were among other organizations operating such rooms. "Although some are quieter than others, . . . each has the same basic objective—get on good terms with the legislators."[68]

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[64] Wyatt file, Centennial History, ISL; Wilson oral history interview, 76, and Hoover oral history interview, 1st ms., 39, both in Indiana Division, ISL.

[65] Indianapolis *Times*, February 26, 1961.

[66] Indianapolis *News*, July 7, 1962.

[67] *Ibid.*, July 25, 1975.

[68] Indianapolis *Times*, March 1, 1951, February 26, 1961.

The expense reports filed with Secretary of State William N. Salin in 1969 indicated the variety of organizations which maintained lobbyists and the amounts they spent to influence legislation. Blue Cross-Blue Shield of Indiana listed expenditures of $6,589.80, of which $3,015.45 went for doughnuts, rolls, and coffee furnished to legislators, legislative staffs, and newsmen. The Indiana Association of Plumbing-Heating-Cooling Contractors paid former Speaker of the House Richard C. Bodine more than $9,000 for looking after its interests. The Motor Truck Association reported spending just over $6,400 to maintain a hospitality room at the Lincoln Hotel. The biggest spenders at the session reportedly were the United Transportation Union and the Brotherhood of Railroad Trainmen, who spent nearly $20,000 to prevent passage of legislation removing firemen from train crews.[69] "Do-gooders" in 1969 included former Democratic Governor Matthew E. Welsh and former Republican Lieutenant Governor Richard O. Ristine. Both registered on behalf of the Indiana Association for Mental Health and worked without pay.[70]

The presence of men like Bodine, Welsh, and Ristine as lobbyists in 1969 illustrated a frequently recurring phenomenon: hundreds of ex-legislators joined the ranks of lobbyists after leaving public office. In the late 1960s the legislators-turned-lobbyists included former Speaker Richard W. Guthrie who lobbied for the Indiana Association of Certified Public Accountants in 1967 and for the American Mutual Insurance Alliance in 1969. Bernard J. Krampe (Senate, 1963-1965, Dubois County) represented the Indiana Statewide Rural Electric Cooperative, Inc., in 1967 while John F. Neff (House, 1965, Marion County) also registered as a lobbyist at the same session.[71]

The Fourth Estate

If lobbyists were a third house, political reporters constituted a fourth. Or, as the British historian Thomas Babington Macaulay wrote in 1828: "The gallery in which the reporters sit has become a fourth estate of the realm." What Macaulay said of Britain was true of Indiana from the first days at Corydon in 1816 to Indianapolis in 1970. This "Fourth Estate" in the capital city provided constant surveillance over the activities of lobbyists and lawmakers. At session time, its ranks swelled with reporters from the major newspapers around the state. During the twentieth century the coverage was potentially nationwide as the wire services stationed reporters at the State House year round. The constant interplay between lobbyists, legislators, and reporters made all three groups interdependent—and frequently antagonistic—participants of Indiana lawmaking.

Several hundred talented men and women, some for decades, most for briefer stints, made their mark by covering the Indiana General Assembly. Most adopted the role of the "people's watchdogs," noting the good, explaining the

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[69] "Doughnuts, Rolls, Coffee Cost Blue Cross $3,000," Indianapolis *News*, April 16, 1969.

[70] *Ibid.*, January 16, 1969.

[71] Guthrie lobbying, *ibid.*, January 27, 1967, and Indianapolis *Star*, February 6, 1969; Krampe and Neff lobbying, Indianapolis *News*, February 2, 1967.

obscure, exposing the corrupt, and interpreting the complex. The three Indianapolis dailies—the *News*, the *Times*, and the *Star*—were by far the most important in the process: each was located on the scene in the capital city and maintained a corps of specialists who probed and prowled around the State House premises twelve months every year.[72]

The Indianapolis *News*, established as an independent evening newspaper in December, 1869, was the oldest of the three. It became a partisan Republican paper when acquired by Charles W. Fairbanks in the 1890s. By the mid-1920s this self-proclaimed "Great Hoosier Daily" enjoyed the largest circulation in Indianapolis and was one of the most influential newspapers in the state. The Fairbanks family owned the paper until 1946 and the *News* retained its essentially Republican bias. A fundamental change in editorial policy occurred in 1944, however, when C. Walter ("Mickey") McCarty became managing editor. Under McCarty the paper became less stridently Republican and considerably less conservative than the state GOP in the 1930s and 1940s. When Eugene C. Pulliam purchased the *News* from the Fairbanks estate in 1946, most observers of the journalistic scene in Indianapolis expected a return to strident partisanship. But Pulliam retained McCarty as managing editor of the evening newspaper until the latter's death in 1965. Primarily because of McCarty's direction, the Indianapolis *News* consistently provided objective coverage of the Indiana General Assembly throughout the era.[73]

The Indianapolis *Times* was the successor to the Indianapolis *Sun*, a Populist-inclined evening daily which began publication in 1888. After the demise of the *Sentinel* in 1906, the *Sun* was the closest thing to a Democratic newspaper in the capital city. In 1914, with Democrats in firm control of both the state and national government, the *Sun* changed its name to the *Times* and reflected a Democratic bias until 1923. In that year, E. W. Scripps and Roy Howard added the *Times* to the Scripps-Howard national chain. Subsequently, to the extent that absentee ownership could influence the editorial page, the *Times* leaned toward the Republican party on national issues. In a city where its morning and evening rivals, the *Star* and the *News*, were openly Republican, however, the *Times* of necessity reflected a Democratic perspective on state and local issues. For example, it supported "wet" Democrats against the excesses of Republican "bone drys" during the Prohibition era and won a Pulitzer Prize in 1927 for exposing the Ku Klux Klan's infiltration of the state Republican party. In the 1930s and 1940s the *Times* was unquestionably the closest thing in Indianapolis to a liberal newspaper, friendlier by far to Democrats on state issues than either

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[72] Indianapolis *Star*, September 27, 1953. Unless otherwise noted, the account of Indianapolis newspapers is drawn from this fiftieth anniversary issue, which contains a wealth of information on the history of the city and its newspapers.

[73] McCarty was one of the great journalists in Indiana during the twentieth century. He began with the *News* as a police reporter in 1914, became city editor in 1926, and in the late 1920s headed the newspaper's legislative coverage. His daily column, "Mickey McCarty Says," ran from 1939 to 1965 and frequently dealt with legislative matters. See "Few Had Greater Career Than Mickey," Indianapolis *News*, November 17, 1969.

the *Star* or the *News*. Shortly after Pulliam purchased the *News* and established Indianapolis Newspapers, Inc., Scripps-Howard assigned Irving Leibowitz to the *Times* as a political writer. He mastered Indiana politics rapidly and by 1950, mostly at Leibowitz's instigation, the *Times* was at war with Pulliam and the *Star*. A New Yorker by birth and education, Leibowitz became in turn city editor, assistant managing editor, and in 1963, managing editor. He also became an arresting journalistic presence in the Indiana General Assembly. Leibowitz and Pulliam were often feared and hated for similar reasons, but usually by different people. When Scripps-Howard closed the *Times* on October 11, 1965, the Democratic party lost its only sympathetic voice in the state capital. At the same time, the General Assembly, in losing Leibowitz, lost one of its most colorful observers when he became editor of the Scripps-Howard newspaper in Lorain, Ohio.[74]

The Indianapolis *Star* began publication on June 6, 1903, as a daily and Sunday morning newspaper that supported the Republican party. In June, 1904, the *Star* absorbed the Republican Indianapolis *Journal*; in February, 1906, it purchased and closed down the Democratic Indianapolis *Sentinel*, becoming the only morning newspaper in the city. It remained second to the evening *News* in circulation and advertising revenue for forty years. Then, in 1944, Pulliam purchased the *Star* and changed the face of Indianapolis journalism. He did so with a sure instinct, packaging his product attractively and making reading it a necessity regardless of one's political persuasion or station in life. The *Star* passed the evening *News* in circulation soon after Pulliam acquired the morning paper. In reverting to a brand of journalism unknown since the heyday of the party press in the nineteenth century, Pulliam also changed the face of Indiana politics. As a publisher who used the *Star* ruthlessly to propagate his views, he became a feared and hated man throughout the state. Politicians in both parties who stood to the left of center—as judged by Pulliam—faced daily excoriation in his news and editorial columns. Moderates of the middle faced daily disapproval. Usually, but not always, firm conservatives in either party received approval. Since more conservatives were Republicans than Democrats, the *Star* was perceived as a Republican newspaper. In a largely eulogistic biography, Pulliam's grandson presented convincing evidence that Pulliam really was neither Republican nor Democrat, but rather a throwback to the personal journalism made famous by publishers like Joseph Pulitzer and William Randolph Hearst: "He embodied some of the paradoxes of many strong, powerful men—tremendous bitterness, jealousy, and insecurity, brilliant insights in news judgment and politics, yet with odd lapses in his perspective."[75]

Charles M. Maddox served in the state Senate for nearly twenty years, from 1947 until the year that Scripps-Howard shut down the *Times*. Maddox

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[74] See Leibowitz citations, Indiana Biography Index, Indiana Division, ISL.

[75] Russell Pulliam, *Publisher: Gene Pulliam, Last of the Newspaper Titans* (Ottawa, Ill., 1984), 6. Written by a man who openly admired his grandfather, this biography is useful in explaining how Eugene C. Pulliam used his newspapers to promote or denounce politicians in both parties.

was generally satisfied with press and television coverage of the General Assembly during those years. But the Indianapolis *Star*, Maddox felt, was frequently unfair and slanted. Pulliam had a "hatchet man" (Maddox's words) among the reporters assigned to the State House, Lester M. Hunt, who joined the paper as political editor in 1948.[76]

Hunt was most criticized for his coverage of Indiana's welfare system. Pulliam decided in July, 1948, shortly after Hunt was hired, that the time was right to cleanse the welfare rolls of "cheats and frauds." Hunt prepared what the Indianapolis *Times* described as "a faked and completely false story [that] launched a scathing attack on the Marion County welfare administration." For three years Hunt conducted a crusade through the *Star* against welfare secrecy. The matter came to a head during the 1951 session with a bill designed to end secrecy about how welfare money was spent. The measure did not please the Indianapolis *Star* since it did not provide for revealing the names of welfare recipients. While the General Assembly debated the matter, Hunt wrote a series of stories about "welfare cheats" and legislators who did not see things the paper's way. More than 100 prominent citizens met at the Columbia Club to refute Hunt's charges and the *Times* published articles proving that the welfare department was catching cheaters effectively without help from the press. The *Times* also published a front-page editorial that noted "Certain specific charges against the Marion County Welfare Department have been made, and published as fact, and repeated to General Assembly committees. On investigation every one of them has proved to be completely false." The *Times* concluded that if welfare laws needed revision, the revision should be considered "carefully and calmly" by legislators who had a full knowledge of all the facts:

> Public welfare is entirely too important to the taxpayers of Indiana and to the human beings who depend on it to live, to be carried on by shrieking trumped-up charges hurled by those [Pulliam and Hunt] with axes of their own to grind and believed by those [legislators] who ought to know better.[77]

The *Star*'s coverage of welfare was the best known instance of slanted reporting by an Indianapolis newspaper during the era. But it was only one of many assignments that Lester Hunt fulfilled by writing to suit his publisher's bias. When Hunt died in 1962 Pulliam remarked that "Lester's death is a great personal loss to me. He was one of my most loyal and confidential friends."[78]

A second well-publicized crusade by the *Star* occurred when Pulliam determined to fight repeal of the 1957 "Right-to-Work" act. Most Republicans attributed the heavy losses in the 1958 election to their party's support of this law.[79] Since Democrats who supported repeal controlled the House in 1959, the

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[76] Maddox oral history interview, 4th ms., 185-86, Indiana Division, ISL. Maddox was far from alone in expressing such an opinion. The *Star* and Lester Hunt were frequently criticized by almost all politicians and newspapermen who granted oral history interviews.

[77] See front-page obituary of Lester M. Hunt, Indianapolis *Star*, June 15, 1962. For articles defending the welfare department and the editorial, Indianapolis *Times*, February 8, 9, 19, 1951.

[78] Indianapolis *Star*, June 15, 1962.

[79] See above, p. 532.

fight in the Republican Senate was crucial. A labor attorney from Illinois was hired by the AFL-CIO to lead the lobbying effort and, when the question came up in the Senate, Majority Leader Roy Conrad of Monticello and three or four Republican colleagues supported repeal. On February 27 the *Star* responded to what it viewed as a Republican defection with a front-page editorial headed "Not To Praise The GOP But To Bury It." The editorial accused Conrad of "dancing to the labor bosses' tune" along with a few other "wobble-headed" Republicans. If Conrad succeeded, said the paper, hundreds of thousands of Indiana citizens would lose respect for his party. "All because country boy Conrad seems to have been befuddled and fooled by a fast-talking Chicago labor lawyer and his big city slicker labor aides." Eight days later Conrad filed a libel suit seeking $500,000 from Pulliam for publishing "false, scandalous, malicious, defamatory . . . matter" intended to injure the plaintiff and his good name.[80] Conrad dropped his suit a few weeks after the session ended and after repeal failed to pass the Senate. But the treatment accorded Conrad was typical of that faced by legislators in both parties who excited Pulliam's wrath.

Mutual suspicion and disapprobation between the press and politicians has existed since the first newspapers appeared in the seventeenth century. It has been a persistent theme in American history since colonial times, and in Indiana politics from the beginning. In all eras, some journalists held a jaundiced view of politicians and politicians reciprocated with a like view of some newsmen. Thus, during the period 1930 to 1970, the Indianapolis *Star* had no monopoly in its capacity to nettle politicians and attract animosity. Next to the *Star*, legislators in these years most frequently found themselves at odds with the *Times*. In 1935, when the latter paper used the term "jackleg lawyers" to describe senators opposing Roberta Nicholson's bill to outlaw breach of promise suits, some senators became irate. One complained from the floor about "smelly, yellow-journalism . . . ."[81] After Irving Leibowitz arrived on the scene, he and the *Times* were attacked on the floor almost as often as the *Star*. In 1955 the *Times* treated Republican Representative Harry W. Claffey, Sr., of Indianapolis to an editorial headed "GOOD-BYE MR. CLAFFEY." The piece pointed out that Claffey voted for a ten dollar a day increase in expense money. Since Claffey lived only eight miles from the State House, the editorial wondered what expenses he could possibly incur to justify the increase. Claffey responded on the House floor with an impassioned denouncement of the *Times* as "a dirty lowdown yellow sheet," and threw a folded copy of the newspaper at Leibowitz in the press gallery. He missed.[82] In the late 1950s and early 1960s Leibowitz endeared himself to some lawmakers and enraged others by nominating the "best" and "worst" of the session. In 1957 Democrat Paul J. Bitz and Republican Albert W. Wesselman, both of Evansville, were identified by Leibowitz as two of the

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[80] For the editorial, *ibid.*, February 27, 1959; for the libel suit, Indianapolis *Times*, March 6, 1959.

[81] Indianapolis *Times*, February 19, 1935.

[82] *Ibid.*, March 4, 1955.

worst. Bitz responded that the columnist denigrated everyone "who refused to succumb to his wiles or to worship at his little throne." Wesselman added it was well-known that Leibowitz was "vindictive and narrow minded."[83] At least one reporter who competed with Leibowitz for stories agreed with these legislative critics. The political editor of the *Times*, said Robert Kyle, was "rarely right" and "a bastard."[84] Nonetheless, the columns and reports written by Irving Leibowitz between 1949 and 1965 were among the more informative filed by the State House press corps during those years.[85]

Indianapolis journalism produced a number of noteworthy political reporters during the era. Arguably, three eclipsed their competitors in State House coverage. Varying widely in personality and style, Maurice Early of the Indianapolis *Star*, Eugene Jepson "Jep" Cadou, Sr., of the United Press International wire service, and Edward Ziegner of the Indianapolis *News* each won a reputation for understanding legislators and the legislative process.

Early graduated from the Marquette University College of Journalism in 1914 and joined the *Star* in 1916 as a general reporter. After stints on the police beat and at City Hall, he was assigned to the State House. His knowledge of the General Assembly was based on coverage of every biennial session from 1921 to 1953. During most of those years Early was in charge of a staff of reporters that practically lived in the Capitol until the legislature adjourned. Beginning with the 1939 session, Early wrote a daily column entitled "The Day in the Legislature." The column consisted of brief paragraphs about proposed legislation and the doings of legislators and was placed in the first column of the front page—the most important location in a newspaper. The column proved so popular and informative that it was continued after the session adjourned with the name changed to "The Day in Indiana." Under this title it retained its place of prominence from March 6, 1939, until January 8, 1954.

Early's coverage of the State House was incisive. While individual legislators sometimes disliked what he wrote, most recognized him as an authority on Indiana's government, politics, and history. Legislative debates sometimes revolved around his morning column and he was frequently quoted in arguments over the merits of pending legislation. In 1933 Early helped organize the Indianapolis Press Club and became its first president. As president he helped organize the Gridiron show where the press, in imitation of the Washington, D.C., press corps, roasted Hoosier politicians. The Gridiron roast became an annual event. Except for the Press Club and Sigma Delta Chi, the professional journalism fraternity, Early was never a joiner. He remained especially aloof from those

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[83] *Ibid.*, March 12, 1957.

[84] Kyle oral history interview, 5th ms., 5, 10, Indiana Division, ISL.

[85] For an overview of his knowledge of Indiana history and politics, see Irving Leibowitz, *My Indiana* (New York, 1964). One California reviewer, who had never been to the state, concluded after reading the book that Leibowitz ". . . must be one of the most polished, informed and accomplished journalists and writers in the profession. He has taken Indiana and illuminated it . . . in dazzling style." See William Hogan, "Here Is Leibo's 'My Indiana,'" Indianapolis *Times*, January 12, 1964.

whom he covered. At his death, both colleagues and competitors agreed that Early's forte had been accuracy. James A. Stuart, the editor of the *Star*, noted "Maurice had a passion for being factual, and objective. He avoided adjectives which might qualify the meaning, and four syllable words which confused the reader." According to C. Walter McCarty of the *News*, Early "always was a stickler for accuracy . . . eminently fair in his writing . . . and never was known to break a release or a confidence." A long-time friend and representative of the King Features Syndicate, C. R. Richardson, described Early's journalism most simply: "No frills, just good news reporting."[86] The traits admired in these encomiums were the traits that made Maurice Early the reporter most respected by lawmakers between 1930 and 1954.

When Early died, "Jep" Cadou recalled more than thirty years of rivalry with the *Star* columnist. "We have competed . . . . We have collaborated . . . . We have kidded each other on defects which we mutually recognized," Cadou wrote.[87] Cadou graduated from Indiana University in 1917, having served as editor of the *Indiana Daily Student*. A member of the United States Army in France during World War I, he started his newspaper career in 1919 with the Indianapolis *News*. In the early 1920s he joined the Indiana bureau of International News Service, eventually becoming bureau chief. He remained bureau chief after INS merged with United Press in 1958 to form UPI. Cadou covered every session of the General Assembly from 1925 to 1967, the longest tenure of any reporter during the era. During these years he became, in the words of Edward Ziegner, "a past master at uncovering the Machiavellian operations of Indiana politicians of both parties, noted for . . . his expertness at deflating political brasshats and government officials."[88]

As uninhibited in behavior as he was professional in his reportage, Cadou once interrupted the Senate by strolling across the front of the chamber, doffed his hat, and quipped "Hi, characters." He called the Democrats' beer import system of the 1930s "the most charming honest political graft I've ever seen." In the 1950s Governor George N. Craig first denied and then admitted backing down from a plan to reform the Alcoholic Beverage Commission. "That was a cute little number, kid, but don't try it again," said the newsman to the governor.[89] Cadou was just as cavalier with colleagues in the press. Of an Associated Press bureau chief, a competitor who he was fond of, Cadou said "He was a good man, but he never learned to spell Rensselaer." Reporters like Lester Hunt, who allowed their own opinion to get mixed up with the news, earned Cadou's contempt. He habitually referred to their stories as "garbage."

Because of his wit, sarcasm, and integrity, lawmakers allowed Cadou to establish the custom of addressing a joint session during the waning hours of each legislature. Business halted in both houses while Cadou recounted the sins

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[86] Indianapolis *Star*, February 6, 1954.

[87] "'A Great Guy,' INS Chief Says of Early," *ibid.*

[88] "Cadou Named for Top Press Award," Indianapolis *News*, March 31, 1960.

[89] *Ibid.*

of omission and commission attributable to each lawmaker, often by name.[90] In 1963, Cadou received the highest honor for a newsman in the gift of the legislature; he was named an honorary member of the Indiana State Senate."[91] The resolution was the legislature's way of thanking the dean of Indiana political reporters for his nearly half century of excellence in reporting its doings.

Edward Ziegner remembered "Jep" Cadou as the man who "quietly, in the best sort of way, . . . encouraged young reporters breaking into the business of writing government and politics." Ziegner was in a position to know. Born in Indianapolis in 1920 he attended Wabash College and in 1942 entered the United States Army. Ziegner joined the Indianapolis *News* as assistant State House reporter in 1946. By 1953 he advanced to director of the paper's legislative bureau and became political editor in the 1960s. Ziegner recalled "Jep" Cadou's reaction when a young reporter once got his first break on an important story: "Pretty good number, kid. If you keep at it, you might make a reporter some day."[92] Ziegner kept at it and succeeded Cadou as the dean of Indiana political reporters. In one of his columns Ziegner proved that it was possible for a reporter to make his point by writing almost nothing:

This Is What
Legislature
Has Done
By EDWARD ZIEGNER
You can say this of the
accomplishments of the 1959
Indiana General Assembly:

Except for Ziegner's picture, this "text" was followed only by white space, one column wide and two thirds of a page deep.[93]

"Yes, I worry about being fair when writing a story," Ziegner admitted in an interview with a reporter for the Indianapolis Chamber of Commerce in 1975. "There's no such thing as total impartiality in this business. That is why I try to keep all politicians at arms length." From 1947 through 1985, Ziegner succeeded better than most of his peers in being impartial and keeping politicians at arms length. During those years his by-line was synonymous with astute analyses from the State House. Ziegner assigned praise and blame on a nonpartisan basis. "Yes, a candidate's personality can affect my personal vote—but not my writing,"

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[90] For Cadou's career, see obituary and tribute by Edward Ziegner, *ibid.*, December 3, 1968, and "'Jep' Cadou, Dean of Hoosier Newsmen, Honored By Three States," Indianapolis *Star*, October 23, 1966.

[91] *Senate Journal*, 1963, pp. 856-57. The resolution stated in part "That we commend Eugene Jepson Cadou, Sr., for his diligent and witty reporting of past sessions of the Indiana General Assembly . . . and henceforth Senator Cadou shall be entitled to all the honors and privileges of office . . . ."

[92] "'Jep' Cadou Was Good Influence In State Politics," Indianapolis *News*, December 3, 1968.

[93] *Ibid.*, February 28, 1959.

he concluded for the Indianapolis Chamber of Commerce.[94] Lawmakers, recognizing Ziegner's stature following Cadou's death in 1968, designated him as the man to roast joint sessions during the waning hours of each legislature. Ziegner did so at the end of every session from 1969 until his retirement in 1985.

After the *Times* folded, Ziegner continued Irving Leibowitz's practice of rating lawmakers as best or worst at each session. Such columns by Ziegner were generally less acerbic, however, than those by Leibowitz. One of the first, headed "Standout Freshmen Prove Assembly Quality Is Rising," illustrated Ziegner's perceptiveness. Among those he chose to praise was Republican William D. Ruckelshaus, his selection as the man who "almost unanimously rates as the rookie standout of the House" in 1967. Other House freshmen "moving ahead of the crowd" included Republican Lawrence M. Borst, Jr., of Indianapolis and Democrat Adam Benjamin, Jr., of Gary. "Also popping up on the lists of better freshmen" were Republican E. Henry Lamkin, Jr., of Indianapolis and Democrat Phillip E. Bainbridge of Lake County. Each of these men went on to distinguished careers in either the state or national governments. Their presence led Ziegner to conclude, as one who had watched the legislature for twenty-one years, that "slowly, sometimes almost imperceptibly, the quality has been going up . . . ." He observed: "You can make a case that the hacks are fewer, and the responsible men greater in number. And that's good, because the Assembly's job . . . isn't a game of political bean bag."[95]

The days of politicians who made lawmaking "a game of political bean bag" ended in part because people like Maurice Early, "Jep" Cadou, and Ed Ziegner were on the scene daily between 1930 and 1970. Because of them and other journalists like them, the press, along with reapportionment and the reforms of the late 1960s, contributed to the professionalization of the Indiana General Assembly.

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[94] For quotations, Craig Beardsley, "A Look at the Political Reporters Who Look at Our Politicians," *Indianapolis Magazine*, 12 (November, 1975), 27; for biographical data, Hubert H. Hawkins and Robert R. McClarren (comps.), *Indiana Lives* (Hopkinsville, Ky., 1967), 893.

[95] Indianapolis *News*, February 13, 1967.

Part V
THE CONTEMPORARY ERA
1970 to 1978

Chapter 17
A Post-Rural Legislature

The 97th through 100th general assemblies inaugurated a new era for the Indiana legislature. The sessions that convened between 1971 and 1978 were the first ones to consolidate the dramatic changes of the 1960s. Those changes included court-ordered reapportionments that substantially reduced the representation from rural counties while proportionately increasing representation from urban areas. As a result, both houses filled with legislators in 1967 and 1969 who were more urban-oriented and more attuned to fundamental change than almost all of their predecessors. The act of 1967 that abolished the old Legislative Advisory Commission and Legislative Reference Bureau was an early indication of the kinds of changes to come. The measure, which passed a divided legislature nearly unanimously, created a new Indiana Legislative Council composed of key leaders from both parties in both houses. This new council was empowered to operate year round independent of the executive branch of government and would be served by a permanent, expanded, and more professionally organized Legislative Services Agency. Other changes approved in the late 1960s included several amendments to the state Constitution aimed at improving the structure and performance of the three branches of government.[1]

Return to Annual Sessions and Shortcomings of Short Sessions

The most visible sign of a changed legislature was the decision to convene in annual instead of biennial sessions beginning in 1972. In one sense a reversion to the pioneer era when the first thirty-five general assemblies met annually, the change became possible when voters ratified an amendment to the state Constitution in November, 1970. The amendment empowered the General Assembly to fix by law the length and frequency of its own sessions. The 97th General Assembly opened on January 12, 1971, and lost no time in implementing the change. H.B. 1001, cosponsored by Republican Kermit O. Burrous of Miami County and Democrat Richard J. Lesniak of Lake County, defined a term of the General Assembly as a two year period extending from the first Wednesday after the first Monday in November of any even-numbered year to, but not including, the first Wednesday after the first Monday of November in the next even-numbered year. The first regular session of a term was to convene on November 15 of each even-numbered year for an organizational meeting. This meeting could not last beyond two calendar days. The session was then to reconvene the following January on the first Tuesday after the second Monday of that month. This so-called "long" session was limited to sixty-one working days, including the organization day (or days), and could not last beyond April 30 of odd-numbered years. The second regular, or "short," session of each term

[1] See above, pp. 493-94.

was to convene on November 15 of each odd-numbered year for an organizational meeting limited to one calendar day. It then reconvened on the first Tuesday after the second Monday of January in even-numbered years. The short session was limited to thirty working days, including the organizational day, and could not meet beyond March 15. The bill establishing annual sessions passed 93 to 2 in the House, and 40 to 0 in the Senate.[2]

Indiana was one of several states that moved to annual sessions beginning in the mid-1960s. In 1966, only twenty state legislatures convened annually; by 1978 the number had reached forty-four states, and Texas was the only large state where lawmakers still met biennially.[3] As government on all levels became more complex and the needs of society grew more insistent, the trend everywhere was toward a full-time legislature. In Indiana, the development of a Legislative Council operating nearly full time between sessions, aided year round by a vastly increased professional staff, was part of the trend. But the Indiana legislature moved cautiously, setting statutory limits of sixty-one and thirty days for the long and short sessions. These limits were intended to disarm those wary of giving the General Assembly authority to fix the length and frequency of its sessions. If the legislature could set its own time limits, critics foresaw annual sessions of twelve months and thus, they feared, Indiana's "citizen legislature" would be replaced by a legislature of full-time professionals. They had a point since, previously, the Constitution ensured a part-time legislature by limiting each biennial session to sixty-one calendar days, Sundays included. The amendment of 1970 and its statutory implementation in 1971 substituted working days for calendar days, thereby permitting recess days which did not count against working-day limits. In this fashion the General Assembly divested itself of the calendar day limitation that frequently had impaired a well-ordered consideration of legislation. Under the new system bills could be filed in November when each house organized, designated its leaders, and selected its committee members. Committees so organized became standing committees to serve throughout the life of the subsequent session. When the working days started in January, mornings were allotted to committee meetings while afternoons were given to floor action. In short, the amendment of 1970 as implemented by the act of 1971 strove for greater efficiency and dispatch in legislative matters while retaining a system of citizen participation.[4]

Although the return to annual sessions was marked by great expectations, short sessions in the 1970s were disappointing. In 1972 Edward Ziegner, dean

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[2] *House Journal*, 1971, pp. 355, 356, 1703; *Senate Journal*, 1971, pp. 1517, 1734; *Laws*, 1971, pp. 104-9. The act was amended in 1973 to provide that sessions would convene to organize on the third Tuesday after the first Monday each November, and then adjourn until "a day certain" fixed by a concurrent resolution, but not later than the second Monday in January of the following year. *Ibid.*, 1973, pp. 1-2.

[3] "State Governments Take On New Vigor," *U.S. News and World Report* (March 20, 1978), 39.

[4] For an evaluation of the change, see James E. Farmer, "The New Indiana Legislature," *Res Gestae* (September, 1974), 7-9.

of State House reporters, concluded that the first regular session to meet annually in 120 years was "unloved, unmourned and cursed even by some of its own members." He found that a short session convening early in a year when Indiana would elect a governor and containing numerous announced or potential candidates for higher state office tended to sidetrack substantive issues. "It has been a bad session in about every way a session can be bad, which is a good many," Ziegner concluded.[5] In 1974, with the pall of Watergate enshrouding a session where Republicans dominated the legislative and executive branches, Ziegner again found the record was bad. "There won't be much in the plus column," he noted of a legislature "so dreary that the cry is again being raised that annual sessions are a lousy idea . . . ."[6]

Senate and House leaders in 1974 divided in their comments. President *pro tempore* Phillip E. Gutman urged a reevaluation of the short sessions: "I feel we must find some technique to define what we want to do in an off session," he said. Gutman was disappointed with too many bills and too little time for fair consideration. If short sessions were to work, he said, the General Assembly must first define important matters and then eliminate those unworthy of consideration. This could be done by agreement ("that's the least acceptable"), by rule ("that's probably the most acceptable"), or by statute ("I have some reluctance to do it by statute because once you set it in concrete it's very hard to change."). House Speaker Kermit O. Burrous, by contrast, was pleased: "I think one very important feature . . . was that it probably established the format for future short sessions." The speaker admitted not much was accomplished in the way of substantive legislation but "we initiated studies that will lead to good, constructive legislation in the 1975, or long, session."[7]

After Democrats won the House 56 to 44 in 1974, the 99th General Assembly became the first after the return to annual sessions with a politically divided legislature. Republicans retained the Senate, 27 to 23. One result was that the 1976 short session proved worse than its two predecessors. The session was similar to 1972 in that it met amidst the preliminary maneuvering of a gubernatorial election year. It was similar to both previous short sessions in that too many bills were filed with too little time for adequate consideration. The greatest shortcoming, however, was the reappearance of practices that were supposed to have been stopped by annual sessions. On the last day, although it proved unnecessary, House leaders "employed that grand old legislative ruse—stopping the clock"—before adjourning with only three minutes to spare. The Senate was as bad, quitting at one minute before midnight.[8]

Spokesmen for both parties agreed the record was nearly intolerable. Veteran Republican Senator Eldon F. Lundquist was especially outspoken: "I've found

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[5] "Scapegoats Sought," Indianapolis *News*, February 26, 1972.

[6] *Ibid.*, February 2, 1974.

[7] *Ibid.*, February 5, 21, 1974. In terms of activity, the 1972 session filed 794 bills and enacted 239 into law. The 1974 session filed 697 bills and 159 became law. Indianapolis *Star*, March 3, 1974.

[8] "Another Fine Mess Assembly Got Into," Indianapolis *News*, February 24, 1976.

out the child we raised turned out to be an undisciplined sibling and we're going to have to kick hell out of it."[9] Leaders in both parties in both houses agreed remedial action was necessary, but there was little agreement on the remedy. Kermit O. Burrous, author of the annual sessions bill in 1971, admitted to "second thoughts about the way the Legislature is operating" as he spoke in support of a bill that proposed to substitute two forty-five day sessions for the long session/short session arrangement. The bill passed the Democratic House 60 to 31. In the Senate the rules committee revised the bill so as to restore long and short sessions with two changes: one would have limited each legislator to introducing two bills during short sessions; the other would have limited the subject matter of bills in short sessions to emergency, budgetary, or oversight legislation. "What brought this bill about," said Senator Lawrence M. Borst, "is this particular session we have just been through. It is a session the like of which I hope I never go through again." Borst spoke right after the Senate killed the measure, 23 yeas to 27 nays. Most lawmakers agreed with the editorial assessment of the Indianapolis *Star*: "A great many Hoosiers must surely be hoping that widespread distress about the session of the Indiana General Assembly just ended will stir action toward better planning and better discipline."[10]

At the 1978 short session the legislature remained divided politically, with Republicans controlling the House 52 to 48, Democrats the Senate, 28 to 22. Nonetheless, major legislation involving state construction projects, highways, streets, and roads, increased school funding, and removal of a sales tax on the tax on gasoline passed both houses on the last day of the 100th General Assembly. Thus, the legislature's centennial occasioned the best short session during the first decade of yearly meetings. The improvement was not sufficient, however, to erase doubts about the wisdom of annual sessions. The Indianapolis *News* summarized the situation at mid-session with a headline: "Short is too short." Republican and Democratic leaders voiced similar reservations. "I think we ought to consider returning to biennial sessions," said Speaker Burrous shortly after adjournment. House minority leader Michael K. Phillips of Boonville agreed: "I think we have an obligation to the citizens of Indiana to reform our legislative procedures so the General Assembly will become more efficient and more productive."[11]

Although an excessive number of bills and the continuing inability to agree on procedural improvements vexed the thirty-day sessions of the 1970s, such shortcomings did not detract from the necessity of convening annually. With the problems of society more vast and more complicated than lawmakers had ever faced before, a return to biennial sessions was out of the question. In the areas of taxation and appropriations alone, the uncertainty of annual revenue projections made annual adjustments in state spending mandatory. Such adjustments could be made best, and with the least disruption of essential state

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[9] "Short Sessions A Flop," *ibid.*, January 30, 1976.

[10] *Ibid.*, January 29, February 6, 1976; Indianapolis *Star*, February 3, 26, 1976. See also *House Journal*, 1976, p. 349; *Senate Journal*, 1976, p. 344.

[11] Indianapolis *News*, February 14, March 6, 17, 1978.

services, only if the legislature met every year. A rules change before 1980 indicated that lawmakers were aware of the problem. The change stipulated that short sessions were for emergency legislation only, *i.e.*, according to the Indianapolis *Star*, "business that can't wait until the next year's long session." The change did not improve short sessions immediately. The subjects considered in 1980 included such "emergency" matters as a bill proposing the posting of the Ten Commandments in every public school classroom; another prohibiting the planting of multiflora roses; another to require non-licensed barbers to post notice that they were not licensed; and a bill to award refunds to persons making chargeable long distance telephone calls within the state and reaching recorded answering services. Representative Richard W. Mangus of Lakeville introduced his bill regarding long distance phone calls because he was tired of calling a doctor at South Bend and being charged for talking to a recording.[12] Nonetheless, the attempt to limit short sessions only to important matters showed that lawmakers were determined to deal constructively with the problems posed by short sessions. They could not do otherwise because the advantages of meeting annually so obviously outweighed the disadvantages.

An Improved Legislative Process

Whether sessions convene annually or biennially, periodic revision of the state code is one of the more important duties a legislature must perform as a continuing body. Until all laws which may be in force are reduced to one, easily accessible code, the courts, attorneys, law enforcement agencies, and the general public cannot know with certitude what constitutes state law. Indeed, unless revision is accomplished with a reasonable degree of regularity, not even legislators know precisely from year to year what is done when they write new law, or repeal or amend old law. Although code revision is necessary and fundamental to the legislative process, until the 1970s in Indiana it was one of the most neglected components of lawmaking. The resultant uncertainty was summarized by an attorney for the Legislative Council:

> The official record of legislative action is the signed enrolled act deposited with the Secretary of State. At the end of every legislative session prior to 1971, the Secretary of State arranged these enrolled acts in the order of their signing by the Governor and contracted to have them printed as the latest volume of the Acts of Indiana. The published volume became "official" to the extent that it exactly conformed to the enrolled act only after it had been certified by the Secretary of State. The published volumes were independent and complete in themselves, each containing only the new laws, amendments, and repeals enacted during a specific session. There was no cross-reference between volumes and no corresponding arrangement between volumes. This arrangement made the official law extremely difficult, if not impossible to find. Further, because there was no comprehensive index between these individual volumes, and because there was no easy way to determine whether a law passed in one session had been amended or repealed at some later date, the Acts were virtually unusable.[13]

Revision of the code languished because it required special expertise that citizens who worked only part time at lawmaking usually lacked. Historically

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[12] "Short Assembly Session Short on Value?," Indianapolis *Star*, January 10, 1980.

[13] Marcia J. Oddi and Margaret C. Attridge (eds.), *Draftsman's Manual to the Indiana Code of 1971* (Indianapolis, 1971), 1.

the people who served were drawn from all walks of life and generally were as nonconversant with law as most of their fellow citizens. Thus, from the beginning in 1816, code revision stood as one of the most arduous, time consuming, and neglected tasks facing the legislature. The very first General Assembly set a pattern that prevailed for more than a century and a half when it stipulated that all territorial laws remained in force and directed committees to combine all existing statutes into one code. Despite the best efforts of the early general assemblies, a revised code was not forthcoming until 1824 and that revision was largely the work of Governor William Hendricks, not the legislature that enacted it. Hendricks' code remained definitive until 1830. In that year the legislature enacted a partial revision that it hoped to complete later. An acceptable revision under legislative auspices proved impossible, however, and in 1839 lawmakers turned to the judiciary for help. When sufficient aid was not forthcoming from that quarter, lawmakers turned once more to the executive. In this manner the second and last revision of the pioneer era, largely the work of Governor Samuel Bigger, was enacted in 1843.[14] Between 1851 and 1969, the legislature undertook only two additional revisions. The first was accomplished at the long session of 1851-1852 in conjunction with implementation of the second Constitution. A second revision, authorized in 1879 and published as *Revised Statutes* in 1881, was never enacted by the General Assembly.[15] Since no revision was effected during the next ninety years, Indiana lacked a definitive statement of statutory law as the state entered the 1970s. Or, as one critic observed:

> In short, the statutory law of Indiana was available to no one in a usable form—to neither the legislator who must have the official citation of an act to amend, supplement, or repeal, nor to the attorney who can not be subject to the uncertainty of the status of the law in his practice, nor to the public-at-large to whom the General Assembly owes a duty to keep the law in order and to make it accessible.[16]

The Legislative Council established the Indiana Statute Revision Commission in 1969 to address the problem. This special agency supervised the preparation of "a memorable 200-page monster which few legislators had the time—or perhaps the inclination—to read completely."[17] This so-called "superbill" passed early in the 1971 session, marking the first time since 1852 that the legislature enacted an updated state code and collected it into a convenient set of books. But the superbill did not settle the matter because the Indiana Supreme Court said the act violated the constitutional provision that "Every act, amendatory act or amendment of a code shall embrace but one subject and matters properly connected therewith . . . ."[18] In response, the 1972 and 1973 sessions passed an amendment that excepted acts of codification from the single subject requirement. After voters ratified the amendment in 1974, the way was cleared for enactment of

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[14] For code revision under the first Constitution, see above, pp. 107-8.

[15] See above, pp. 246-47.

[16] Oddi and Attridge (eds.), *Draftsman's Manual to the Indiana Code of 1971*, 2.

[17] As described by Joan Richardson, Indianapolis *Star*, February 25, 1979.

[18] *State ex rel. Pearcy* v. *Criminal Court of Marion County*, 257 Ind. 183.

a definitive Indiana Code. For two years and with the aid of a computer, a newly-created Indiana Code Revision Commission prepared a seven-volume "superbill" that became the first law passed at the 1976 session. The bill included laws from the first days of statehood and cost about $115,000 to print. The bill also provided that all legislation of a general and permanent nature passed at the 1976 and subsequent sessions would be drafted as amendatory to the 1976 Indiana Code. Thus, Indiana would never again be without an accessible, continuously updated code.[19]

The passage of a classified, logically arranged, and constitutional version of the Indiana Code addressed the longest-standing shortcoming in the history of the legislature. The act of 1976 was unquestionably the most historically significant accomplishment of the decade. Now, for the first time since 1852 and only the third time since 1824, lawmakers, courts, lawyers, and the public at large could know with certitude what constituted the law in Indiana. The act also represented an important fruit of the 1967 legislation that replaced the old Legislative Advisory Commission and Legislative Reference Bureau with a new Indiana Legislative Council and a new Legislative Services Agency.

Several bills enacted by bipartisan majorities in 1971 aimed at increasing the power of the new council. Two of the most important were vetoed by Governor Edgar D. Whitcomb. The first, in which the governor was sustained by the 1972 session, would have removed the council from any control by the state Department of Administration and state Budget Agency. Instead the council would make its own rules regarding purchases, finances, contracts, budgeting, employees, policy, and printing. The second, in which the governor was overridden, empowered the council to issue subpoenas and compel attendance of witnesses and production of papers and documents at council hearings.[20]

The Legislative Services Agency, under Executive Director Anthony E. Ard, expanded to keep pace with the new powers of the council. By 1979 Ard supervised a staff of forty-eight permanent employees divided into four divisions: the office of bill drafting and research, the office of code revision, the office of fiscal management, and the office of legislative information. When a legislator wanted a bill or resolution prepared, a legislative analyst researched present law and prepared a draft. The draft was then submitted to the office of code revision, where it was edited before being passed on to the office of fiscal management. After that office determined the proposal's fiscal impact, the draft returned to the office of code revision where it was picked up by the legislator.[21]

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[19] Indianapolis *News*, January 15, 1976. For a concise history of the problems with the code and an explanation of how to use the 1976 revision, see Indiana Legislative Council (comps.), "The Indiana Statutory Framework," in *Drafting Manual for the Indiana General Assembly* (Indianapolis, 1976), 101-7.

[20] Indianapolis *Star*, March 13, 27, November 16, 1971. A measure giving the council financial autonomy—in much the same manner as the one Whitcomb vetoed—became law in 1973.

[21] *Ibid.*, February 25, 1979; interview with Executive Director Charles W. Harris, *Interchange* (April, 1986), 1. The office of legislative information served the public directly by answering queries regarding the legislature or legislation.

By the time the centennial session convened the Legislative Services Agency functioned full time as a bipartisan service and administrative arm of the legislature. The agency's bill drafting service was its most important function. More than any other single factor, this service improved the legislative process by ensuring that lawmakers could have greater confidence than ever before in the accuracy of bills they introduced. The agency also published draftsman's manuals, supervised the herculean code revisions of 1971 and 1976, and helped with special problems. A proposal drafted for Senators Robert D. Garton and W. Wayne Townsend in 1974 illustrated the agency's usefulness in the latter area.

The bill addressed the problem of administrative law whereby executive agencies issued rules and regulations carrying the force of law. By 1974 the legislature had granted at least fifty-five agencies the power to issue such regulations and the index of current rules covered almost 400 pages. Garton sponsored the measure because he received complaints from constituents regarding a rule by the Department of Natural Resources that prevented bass fishing contests at Lake Monroe. Townsend cosponsored the bill because "he is asked almost daily by people, 'Why did you pass such a law?' and later finds out the complaint is about an agency-established rule." Townsend singled out the Administrative Building Council as one example of a "runaway agency," saying it required approval of plans for farm buildings. "That was not the intent of the law," he said, "so we had to come back the next year and pass a law exempting farm building from the council's activities." Townsend concluded "the public is fed up with some of the rules and feels that they are being unduly regulated." His intent, he added, was to find a means whereby the legislature could head off a rule if it determined the proposal was unreasonable. Under the bill drafted at the request of the two senators, agency rules would be submitted to the Legislative Council two months before taking effect. The council, aided by the services agency, could review the rules for sixty days before they were presented to the governor and attorney general for approval. In addition the council could review existing rules and suggest "repeal or revision . . . in the public interest." Both houses passed the bill and, near the end of the session, both approved a conference committee report that reconciled differences. The bill failed to become law, however, because it was never signed by the speaker of the House and sent to the governor.[22] The work of the Legislative Services Agency in drafting the proposal is nonetheless an important illustration of how legislators could meet constituent complaints. The availability of such expertise year round helped transform the General Assembly into a more professionally functioning legislature.

The updated code and the expanded capacity of the Legislative Services Agency both improved the legislative process during the 1970s. But such improvements did not compensate for one technique that could plague the process if used to excess. From time immemorial legislators sometimes removed the contents of a bill and substituted language on a completely different subject to get measures passed in an almost secret fashion. The tactic, known as bill-

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[22] Indianapolis *Star*, January 13, 1974; *Senate Journal*, 1974, pp. 599, 614, 630, 729.

stripping, was used most often to pass legislation that sponsors felt could not withstand exposure in a committee. Under the rules, either house could strip the content of a bill passed by the other and substitute a new and unrelated measure on third reading. First it was necessary to obtain the consent of the sponsors in the house of origin. If this were done, and the bill as amended passed the second house, it returned to the first house. There, if the primary sponsor accepted the amendment and the full house concurred, it went to the governor for his signature. If the house of origin amended the measure, it returned to the original author. The author could then file a motion to dissent, thus effectively killing the measure. Or, the author could file a motion to concur in the amendment, and the bill as amended went to a conference committee to reconcile differences. If the conference committee agreed on compromise language, the lawmakers then voted separately in each house to accept or reject the conference committee report. In this manner, one could bypass a committee that was either unfriendly to a particular piece of legislation or unlikely to approve a bill's contents once they were understood.

Although bill-stripping was as old as the legislature, it received critical attention only if an especially controversial measure thereby became law or if an inordinate number of stripped bills did so. Then the outcry could be great from legislators who felt they had been caught off guard and from a press and public who felt they had been deceived. Still, judged by public reaction as reflected in news reports, bill-stripping was not a recurring problem until the 1960s. During that decade, however, the practice became widespread. In fact, one reporter concluded that 1967 "should be known as the strip-tease session," but not because a topless go-go girl performed before lawmakers in the Indianapolis Press Club. Rather, it was because of the extended practice of "stripping" bills of their original subject matter and substituting entirely new bills in the form of amendments. According to Eugene "Jep" Cadou, Sr., more than 100 bills were so amended that year in conference committee, in standing committee, or on the floor.[23]

What Cadou saw as nearly epidemic in the 1960s became endemic and scandalous in the 1970s. Stripping became endemic because of the sheer volume of bills considered at each session. On average, more than 1,600 bills were filed at the long sessions during the decade; the 1977 centennial session capped the trend with an all-time high of 1,770 measures introduced.[24] This volume made stripping easier because it resulted in a high number of duplicate or similar bills being filed. After a bill passed, the temptation to substitute subject matter in a similar or duplicate bill became irresistible. Stripping became scandalous because it was the method whereby, for example, in 1972 a simple bill regarding warnings

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[23] Indianapolis *Star*, March 9, 1967.

[24] *Ibid.*, February 4, 1979. According to this newspaper 1,688 bills were introduced in 1971, 1,263 in 1973, 1,706 in 1975 and 1979, and 1,770 in 1977. As might be expected, House bills outnumbered Senate bills by better than two to one.

at railway crossings was transformed by Senate leadership into a bill that repealed part of the full crew statute for railroads.[25]

The decade abounded with convoluted examples of stripping. For instance, in 1975 the Senate passed a measure to make throwing rocks at trains illegal. Since rock throwing was already covered by existing law, the bill was given to Katie Hall in the House for substitution of a health care measure. Her proposal stripped the Senate language and instead permitted bond issues for financing outpatient medical centers and laboratories. In the conference committee to reconcile differences between throwing rocks at trains and issuing bonds for medical facilities, the bill was stripped a second time. The third version gave the state Alcoholic Beverage Commission authority to fix the retail price of beer and wine and modified rules for granting and/or renewing liquor licenses. "It's a sad day when liquor takes the place of health care," said Representative Hall when she learned of the change.[26]

When a bill could transmogrify the way the rock-throwing bill of 1975 did, bill-stripping came under increased attack. Walter J. Roorda, who represented Jasper County from 1969 to 1986, led the effort to limit the practice. A lifelong Republican who owned a furniture store and upholstery shop in Demotte, Roorda was named chairman of the House committee on rules and legislative procedures in 1973 just as the problem of stripping was coming to a head. He was rules and legislative procedures chairman again during the centennial sessions of 1977 and 1978 when he chaired an interim committee that made a detailed study of the problem of stripped bills. Roorda felt bill-stripping was necessary to preserve the possibility of action on matters that arose after the deadline for filing bills passed. His study committee recommended new rules to preserve the technique while curbing the abuses. Under rule changes adopted by both houses in the late 1970s, stripping became an open, public procedure. A posted notice spelled out exactly what a conference committee intended to do. The posted information included the number of the bill to be stripped, the author's name, and the language that was to be substituted. In this way, the legislature avoided paralysis regarding matters that needed attention after the filing deadline passed.[27]

About the time effective action was taken to curb stripping, a new method of getting bills through with a minimum amount of attention emerged. Occasionally a legislator wanted to introduce a bill but was not prepared to do so before the end of the last day for filing bills. In such instances he could introduce a so-called "vehicle" or dummy bill which could be amended at a later date by inserting the desired text. As a matter of course by 1976, "vehicle bills" were filed and referred to committee bearing a number and captions but no real

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[25] See below, pp. 643-44.

[26] Indianapolis *Star*, April 16, 1975. This stripped bill did not become law. For other examples of controversial strips see "Irate Republicans Challenge House Demos On 'Stripping,'" *ibid.*, January 24, 1976, and "Stripping of Bills Is Evident," Indianapolis *News*, February 18, 1978.

[27] Telephone conversation between Roorda and author, July 11, 1986; Roorda file, Centennial History of the Indiana General Assembly, Archives Division, Commission on Public Records, Indiana State Library, Indianapolis.

text. According to Representative Roorda, such bills were indispensable to an orderly legislative process because they provided a means of getting an important and needed measure that was not ready at bill deadline time. When they also became a common way to avoid stripping, the Indianapolis *Star* stated that "an increasing number of persons" asked "if it is not time to call a halt to the vehicles." With Roorda as chairman of the rules committee in 1977, two reforms were adopted in the House: one, the number of vehicle bills was limited to twenty-five per session and two, they must be assigned to the rules committee. Similar reforms were adopted by the Senate rules committee, so that as the 1970s ended bill-stripping and vehicle bills remained as an integral part of an orderly process but with the possibility of abuse greatly lessened.[28]

The Constitutional Context

Voters ratified several significant amendments to the state Constitution between 1967 and the mid-1970s. The most important one concerning the General Assembly allowed the legislature to set the length and frequency of its sessions. Important amendments affecting the executive branch stipulated that governors might serve consecutive four-year terms and that candidates for governor and lieutenant governor must run as a team. Another amendment substituted an entirely new Article 7 on the judiciary.[29] At least one other key amendment, approved by the 1971 and 1973 sessions and ratified by the voters in 1974, lowered the voting age in Indiana from twenty-one to eighteen years of age.[30] Proposals that did not survive the amending process were numerous. More than twenty-five amendments were introduced in 1977 in the House alone, including one that would have increased the number of representatives to 101. Stephen C. Moberly of Shelbyville got the idea on election night in 1976 when it appeared the major parties would divide the House, thus making the election of a speaker and other officers impossible. "I feel something has to be done to correct the situation because some day it is going to happen," said Moberly. His joint resolution expired without a hearing in the committee on rules and legislative procedures.[31] Amendments proposed in 1978 included one that would make it more difficult to override a veto. Governors, because of the power and prestige of the office, almost always could get one third of the legislature to support

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[28] F. Richard Rembusch and Clarine Nardi Riddle, *Drafting Manual for the Indiana General Assembly* (Indianapolis, 1976), 627; Indianapolis *Star*, January 11, 1976; telephone conversation between Roorda and author, July 11, 1986.

[29] See above, pp. 493-94.

[30] *House Journal*, 1971, p. 2015; *ibid.*, 1973, pp. 1091, 1493; *Laws*, 1973, pp. 19-24.

[31] Indianapolis *News*, December 13, 1976; *House Journal*, 1977, pp. 20, 60. Moberly may have been right. Although the House had never divided fifty-fifty between the two parties, it came close in 1859 and in 1939. In 1859 the Republicans and Democrats each had forty-six seats, with three Know Nothings and four anti-Lecompton Democrats. One member, John S. Davis of Floyd County, was a former Whig who refused to identify with any party. Republicans organized the House with Know Nothing support and the votes of Democrats opposed to admitting Kansas to the Union as a slave state. In 1939 Republicans held a 51 to 49 advantage.

a veto. But the Constitution provides that a simple majority of fifty-one votes in the House and twenty-six in the Senate are sufficient to override. Governor Otis R. Bowen wanted this changed to a two-thirds vote in each house. Bowen sought the change—one that would vastly increase the power of a governor vis-a-vis the legislature—because lawmakers overrode his veto of a victims' compensation act in 1977. The governor felt the administrative cost of the measure might bankrupt the state. Speaker Kermit Burrous, unwilling to support an amendment that would obviously weaken the legislature, never called this measure down for second reading.[32]

Most of the constitutional questions that sometimes disrupted earlier eras—the election of United States senators, conflict between the executive and legislative branches of government, state apportionments, and congressional districting—were absent in the 1970s. United States Senate elections ceased to be an issue in the General Assembly after the adoption in 1913 of the Seventeenth Amendment to the United States Constitution that stipulated direct election by the people. The struggles with Governors Whitcomb and Bowen over property tax relief, while heated at times, could not be considered serious conflicts between the legislative and executive branches. State apportionment and congressional districting were also more perfunctory following intervention by federal courts in the 1960s. The Republican legislature of 1972, albeit in a thoroughgoing partisan way, merely applied federal court guidelines to the federal Census of 1970 and escaped prolonged embroilment.

Some constitutional issues sparked interest for a time. These included the so-called Liberty Amendment to the United States Constitution. In 1963 the House had approved, by a 51 to 46 vote, a proposal to abolish the federal income tax and to prohibit the federal government from engaging in business in competition with its citizens. By the time it got to the Senate the measure explicitly sought repeal of the Sixteenth Amendment to the United States Constitution. The Senate killed the proposal in 1963 by a 21 to 26 vote. In 1972 the House public policy committee resurrected the Liberty Amendment and recommended passage of a resolution urging Congress to take action. This time the measure failed by a 31 to 61 vote.[33] Another constitutional issue arose after the United States Senate ratified treaties in 1977 dealing with the Panama Canal. Under the treaties the United States was ultimately to relinquish its control over the waterway. When the next legislature convened the House ventured into American foreign policy with a resolution that asked Congress to hold a nationwide referendum in 1978 before surrendering the Canal. During the debate one member asked Speaker Burrous to send a fact-finding committee to Panama. The speaker quipped, "If I do, it will be a one-way trip." The resolution passed 54 to 34

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[32] Indianapolis *Star*, February 14, 1978. For the victims' compensation bill, see below, pp. 624-25.

[33] Indianapolis *Star*, January 26, 1972; *House Journal*, 1963, pp. 85, 765; *ibid.*, 1972, pp. 63, 942; *Senate Journal*, 1963, p. 898.

before dying in the Senate.[34] One matter that made it to the floor and potentially affected federal-state relations sought to change the national anthem. Representative Steve L. Collins of Portage authored the proposal to replace the "Star Spangled Banner" with "America the Beautiful." He offered ten reasons for the change, including the information "that the current national anthem was written during a war and the words were set to the tune of an English drinking song dedicated to an ancient bard who celebrated the joys of wine and free love." According to Collins, "America the Beautiful" was more appropriate as an anthem because it "emphasizes peace, the brotherhood of man and faith in God." Clifford D. Arnold of Michigan City received "a roar of approval" when he moved that Collins' resolution be immediately tabled. "By a resounding voice vote" it was so ordered.[35] Issues such as the Liberty Amendment, the Panama Canal treaties, and the "Star Spangled Banner," despite constitutional implications, were but temporary diversions and did not engender the kind of conflict that marked previous eras. But the proposed Equal Rights Amendment (ERA) to the United States Constitution, passed by Congress in 1972, did provoke such a conflict. The measure sought to grant full civil rights to women with the simple statement that in the United States equality of rights could not be abridged on account of sex. In Indiana, as in the nation, ratification of the Equal Rights Amendment proved both the most important constitutional matter to arise and the most acrimonious issue of the decade.

Women's Rights and Related Issues

Indiana expanded the civil rights of women a year before Congress enacted the ERA when a bill banning discrimination by sex in employment became law in 1971. Then, between 1973 and 1979, lawmakers struggled over ERA. During these same years the legislature also faced several issues appurtenant to women's rights, such as legalized abortion, pornography, and rape.

Republican Senator Robert D. Garton of Columbus, a supporter of equal rights for women, sponsored the bill banning discrimination in employment at his first session in 1971. The act, an amendment to the state's 1961 civil rights act, declared that denial of equal rights to a job, a home, education, and public accommodations—on the basis of sex—was "an unlawful practice." Garton described his measure as "Indiana's first attack on 'systemic discrimination.'" He explained "We are going after the system, where the system sometimes without its own knowledge, is discriminating." Opposition was led by the sole woman senator, Republican Joan M. Gubbins of Indianapolis. According to the press, however, "the fact that Senator Leslie Duvall (R-Indianapolis), one of the most vocal conservatives in the Senate, cosponsored and spoke for the measure may have prevented a substantial Republican vote against it . . . ." In addition, Democratic Senator Philip H. Hayes of Evansville characterized Garton's proposal

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[34] Indianapolis *Star*, January 24, 1978; Indianapolis *News*, February 28, 1978; *House Journal*, 1978, pp. 108, 109.

[35] Indianapolis *Star*, February 24, 1978.

as an important and necessary measure because it attacked the "root systems of discrimination . . . ." The bill allowed discrimination by sex in jobs for which sex is a bona fide occupational factor, such as attendants for men's or women's restrooms, and it specifically excluded from coverage toilet and dressing room facilities. The bill met requirements to have the state Civil Rights Commission be the referral agency for complaints under the equal opportunity section of federal law. The act passed the Senate 42 to 6, the House 56 to 25.[36]

Indiana's fight over the ERA began at the 1973 session. Republican William S. Latz of Fort Wayne and Democrat Clifford D. Arnold of Michigan City cosponsored the resolution for approval and the House passed it on Valentine's Day after an hour of "tense debate." Latz led the arguments in favor, stating it was time to "give women in this country equality under the law." Opponents warned ratification would mean that federal courts could usurp state law. Floyd B. Coleman, a physician from Waterloo, articulated the stand of those who championed woman's traditional role as wife and mother. He offered a rhymed verse entitled "Pray for Defeat of ERA." The 36-line poem included:

> That the ERA takes from women
> Those rights assigned to them by Thee
> The right to be just a wife and mother
> The right to give up rights for Thee.

Representative Richard B. Wathen of Jeffersonville, serving at his first session, spoke for the more sophisticated supporters of the measure. Wathen recalled the scene later with these words:

> The worst can of worms the federal congress ever handed us had been the Equal Rights Amendment. What ranting, what raving, what drivel have we been forced to hear and speak over ERA. Men and women will be required to use the same bathrooms; women will be subject to the draft if there is a war; women will serve in the trenches; our social security system will be in even greater disarray than it is at present; women have been discriminated against; they have been second- or third-class citizens. What a weary catalogue of anxieties we have given the world in these debates.

At the close of debate twenty-four Democrats joined twenty-nine Republicans to vote yes against three Democrats and forty-two Republicans who voted no. ERA passed 53 to 45, two votes more than the minimum required, and the measure moved to the Senate.[37]

Senator Garton led the effort for ERA in the upper house, where a vocal, bipartisan majority opposed what the Indianapolis *Star* described as "possibly the most fought-over single piece of legislation of the 98th General Assembly,

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[36] *Ibid.*, March 2, 1971; Indianapolis *News*, April 23, 1971; *House Journal*, 1971, pp. 1449, 2228; *Senate Journal*, 1971, pp. 191, 1719, 1812, 1932; *Laws*, 1971, pp. 1444-55.

[37] Indianapolis *Star*, February 15, 1973; Richard B. Wathen, *Wathen's Law: The Hang-ups of an Indiana Politician* (Chicago, 1981), 108; *House Journal*, 1973, pp. 492-93, 1505. Of the six women in the House, Julia M. Carson, Frances H. Gaylord, Marilyn F. Schultz, and Lucille M. Wooffendale supported the amendment while Janiece L. Crimmins and Doris P. Dorbecker opposed it.

with large blocs of women lobbying on and off the Statehouse scene." The cosponsor was Senator Hayes, the Democrat who had supported Garton's 1971 act against sex discrimination. Joan Gubbins again led the opposition.[38] She was joined by several Democratic senators, including Angeline P. Allstatt of Indianapolis and Herman J. Fanning, Jr., of Terre Haute. Fanning stated he opposed the measure because United States Senator Birch E. Bayh, the author of the amendment, admitted that if ERA took effect Fanning's daughter would have to register for the draft when she turned eighteen. Charles E. Bosma of Marion County typified Republican opponents: ERA would impose a single standard of sameness on the sexes and that "would deal a severe blow to the time-honored relationship between husbands and wives." In his closing argument, Garton spoke of a fight for equality that had been going on for more than a century and stated that women were still struggling. He added that the "emotion had been distorted." On April 2, nearly six weeks after House approval, the Senate voted 16 to 34 not to ratify the proposed amendment. "I thought we would win it," said Garton. "At least I thought it would be much closer."[39]

The House voted again in favor of ratifying ERA at both the 1975 and 1976 sessions of the 99th General Assembly, but both times the measure again was lost in the Senate. At the long session, the resolution was killed by an 8 to 5 party-line vote in the Republican-controlled governmental affairs committee on February 14. Late in the session, Garton was one of two Republicans to cross party lines in support of a Democratic ploy to strip a Senate joint resolution already passed and substitute H.J.R. 1. Speaking in favor of the substitution, Garton asked "What is wrong with extending the constitutional rights and privileges to all members of our society? Was the Constitution written just for males . . . ?" In spite of Garton's effort, the Senate defeated the substitution 27 to 21. In 1976 ERA died again, this time "quietly" in a Senate committee that did not even consider it.[40]

Since Democrats won the Senate in 1976, Thomas J. Teague of Anderson was chief sponsor on January 18, 1977, when the Senate finally approved the House resolution and made Indiana the thirty-fifth state to ratify the proposed amendment. The measure was called down for third reading before a gallery filled with proponents and opponents as Teague stated "Indeed, this is a historic day for Indiana and the Indiana State Senate." Senators debated for two hours before approving ratification by a 26 to 24 margin, a bare constitutional majority. Garton and two other Republicans, James R. Harris and John R. Larson, joined twenty-three Democrats in voting yes; five Democrats—Joseph G. Bruggenschmidt,

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[38] Indianapolis *Star*, April 3, 1973. For the text of the amendment and Gubbins' effort against it, see above, p. 581.

[39] "Issue Dead For Rest of Session," Indianapolis *Star*, April 3, 1973; *Senate Journal*, 1973, pp. 840, 1267. Philip Hayes was also "stunned by the smashing defeat" that marked his last effort on behalf of women's rights in the Indiana General Assembly. In 1974 Hayes was elected to Congress, where he served from 1975 to 1977.

[40] Indianapolis *Star*, February 14, March 11, 1975, January 8, 1976; *Senate Journal*, 1975, p. 503.

Herman J. Fanning, Robert E. Peterson, Paul M. Stanley, and Wilfrid J. Ullrich—joined nineteen Republicans in voting no. The measure carried because Democrat W. Wayne Townsend, after receiving a telephone call urging his support from Rosalynn Carter, wife of President-elect Jimmy Carter, voted yes. The press reported that after the vote "there was a lengthy celebration in the halls by ERA supporters, while those who had battled ERA legislation grimly buttoned their coats and walked away."[41]

The conflict over ERA in the Indiana legislature did not end in 1977, however, because opponents of the amendment tried to rescind Indiana's approval at the very next session. The intensity of the effort in 1978 was illustrated by the action of Representative Donald G. Boys of Johnson County who wanted House rescission to be as dramatic as possible. Boys introduced a resolution alleging among other things that supporters of ERA made "false and deceptive use of forged letters" to work a fraud upon the 1977 House. He therefore wanted it resolved

> That the so-called assent of this House to the ratification of the so-called equal rights amendment be expunged from the Journal of the House; and for that purpose, that the Principal Clerk of the House, at such time as the House may appoint, shall bring the manuscript Journal of the 1977 session into the House, and, in the presence of the House, draw black lines around the said purported assent or resolution purportedly showing the assent of this House to the so-called equal rights amendment, and write across the face thereof in strong letters, the following words: "Expunged by order of the House, this . . . day of . . . , 1978."[42]

The scene was less dramatic but more ironic in 1979 when the Senate voted to rescind its 1977 approval of ERA. Robert Garton voted with the majority favoring rescission because, he said, ERA backers had seven years to get the proposal ratified and Congress changed the rules by granting a two-year extension. Garton thus had the distinction of voting for ERA at least four times and against it once.[43]

As the Indiana General Assembly conducted its first debate on ERA in 1973, a closely related issue exploded upon its deliberations: abortion. On January 22 the United States Supreme Court overturned abortion laws in Texas and Georgia. The decision, *Roe* v. *Wade*, found that a woman's right to privacy included the right to terminate a pregnancy. Thus, according to the court's majority, a fetus (unborn child) was not a person deserving of the protections of the Fifth and Fourteenth Amendments to the United States Constitution. Therefore, the court held, states could not regulate abortion during the first three months of pregnancy; they could regulate only as to where abortions were

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[41] Indianapolis *News*, January 19, 1977; *House Journal*, 1977, p. 69; *Senate Journal*, 1977, p. 77.

[42] *House Journal*, 1978, pp. 24-25. The *Journal* reflects no further action on Boys' resolution and all attempts to rescind failed in 1978.

[43] "Garton has tough act to follow as Senate leader," Indianapolis *Star*, November 16, 1980; Garton file, Centennial History, ISL. Even with a two-year extension, the amendment was never ratified by the requisite three fourths of the states.

performed during the second three months; and they could prohibit the procedure during the third three months only if the pregnancy did not endanger the life or health of the pregnant woman. In light of this Supreme Court ruling, a three judge federal panel ruled that Indiana's 1905 abortion law was unconstitutional. That statute had forbidden anyone to administer drugs or medicines to, or use any instrument or device upon, any woman to procure a miscarriage "unless such miscarriage is necessary to preserve her life . . . ." The act also had forbade a woman to solicit a miscarriage by any means "except when done by a physician for the purpose of saving the life of the mother or child . . . ."[44]

With no valid abortion law on the books, the General Assembly acted with dispatch during the last month of the 1973 session. Bills were introduced in each house with the ensuing law emerging from a conference committee at the end of the session. The legislation addressed the issue in terms of the high court's trimester distinctions regarding pregnancy; the law was unusual in that it clearly expressed repugnance for *Roe* v. *Wade* and stated that the legislature would permit abortions as grudgingly as possible:

> It is not the intent of the Indiana General Assembly, in enacting this legislation, to acknowledge that there is a constitutional right to abortion on demand or to indicate that it approves of abortion, except to save the life of the mother. The General Assembly is, however, controlled to a certain extent by recent Supreme Court decisions and this legislation is an attempt to abide by those decisions to the extent necessary.

The new law required that an abortion during the first three months of pregnancy must be performed by a physician in a licensed hospital, outpatient clinic, or other medical facility. During the second three months an abortion could be performed only in a hospital. During the third three months the act permitted abortion only to save the mother's life. The law also required parental permission for an abortion on an unmarried woman less than eighteen years old unless the abortion was necessary to preserve the life of the mother.[45]

With the possible exception of the ERA, no issue of the 1970s engendered greater emotion than did abortion. Supporters of *Roe* v. *Wade* saw abortion as a necessary extension of a woman's right to privacy—the right to control her own body. Opponents such as Democratic Senator Wilfrid J. Ullrich of Aurora saw liberalized abortion as murder. "We cannot take the life of the most vicious killer," said Ullrich in reference to another Supreme Court decision declaring capital punishment unconstitutional, "yet we can take the life of the most innocent human, an unborn baby." Many avid anti-abortion legislators opposed the 1973 state law on grounds it legitimized the Supreme Court decision. These included the father and son team of Senator Burnett C. Bauer and Representative B.

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[44] Indianapolis *Star*, March 13, 1973; *Laws*, 1905, pp. 663-64.

[45] *Senate Journal*, 1973, pp. 648, 1222; *House Journal*, 1973, pp. 1255, 1350, 1714, 1730; *Laws*, 1973, pp. 1740-47, quotation, 1740-41. The act became law without the signature of Governor Otis R. Bowen, a physician. Bowen did sign another abortion-related law that permitted private and denominational hospitals, and professional medical employees at all types of hospitals, to refuse to perform abortions. *Ibid.*, pp. 763-64; Indianapolis *Star*, April 25, 1973.

Patrick Bauer, both Democrats of South Bend. The elder Bauer spoke against the Senate measure because "The horror of open abortion should not be covered up by a bill which cleanses murder." The younger Bauer was leery of legislation that allowed a mother to "shop around to interpret the word 'health' liberally. Don't rubber-stamp the Supreme Court decision," he urged. While no legislators spoke in favor of abortion in 1973, those who supported the new law believed legislation was necessary to "prevent the creation of 'open abortion mills' in Indiana." They agreed with Senator Gubbins: "I abhor what I'm doing and what I'm asking you to do . . . . Yet in my own conscience, I feel that if we do not enact this bill, we will be contributing to the extinction of more lives than if we do."[46] The law of 1973 was only the opening round in a battle marked by legislative skirmishes over abortion at every session through 1986.

Pornography drew legislative attention as an unlikely alliance of the proponents of the so-called "moral majority," adamantly opposed to both the ERA and abortion, joined with champions of women's liberation in demanding restrictive laws. The former saw all pornography as violative of God's law; the latter considered depictions of women as sex objects both demeaning and conducive to acts of violence. The matter reached the General Assembly in 1974, after the United States Supreme Court held Indiana's pornography law unconstitutional. Senators Walter P. Helmke, Sr., of Fort Wayne and Garton responded with a bill addressing the court's objection that the terms "lewd" and "obscene" were too vague in the old statute. In light of the high court's demand that alleged obscene matters and performances be described in specific terms, the proposal used language as sexually explicit as possible. Although the wording might have offended community standards, the Indianapolis *Star* nonetheless printed the text when the measure first passed. The bill passed the Senate 49 to 0, was amended and passed by the House 85 to 5, but failed when the Senate tabled a conference committee report.[47]

The legislature turned its attention to another women's rights issue in 1977 when it passed a bill to fund emergency hospital treatment for rape victims. Senator Katie B. Hall of Gary sponsored the measure, which required hospitals to provide treatment if the rape were reported within forty-eight hours and if the victim agreed to cooperate with police. The bill, patterned after similar programs in other states, also provided that rape victims who could not pay would be treated free, with the hospital reimbursed from a special fund. Senator Hall's bill passed both houses handily but was vetoed by Governor Bowen along with another bill providing compensation for victims of violent crimes. Bowen

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[46] Indianapolis *Star*, March 13, 22, 1973.

[47] *Ibid.*, January 11, 1974; *Senate Journal*, 1974, pp. 117, 597, 628; *House Journal*, 1974, pp. 560, 664. According to the *Star*, the bill defined offensive behavior as "acts of masturbation, excretory functions, lewd exhibition of the genitals, sado-masochistic abuse, homosexuality, lesbianism, bestiality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast or breasts of a female for the purpose of sexual stimulation, gratification, or perversion."

acted because, he said, administrative costs for the programs would be "staggering." Both vetoes were overridden during the 1978 session.[48]

Property Tax Relief

Tax law vied with the Equal Rights Amendment and abortion to become the dominant issue of the 1970s. Proponents of tax reform believed that property owners in Indiana bore a disproportionate share of the tax burden in the state. These proponents found their champion in Otis R. Bowen, speaker of the House at the 1971 and 1972 sessions and governor from 1973 to 1981. At Bowen's instigation a property tax relief measure (H.B. 1288) was passed in 1971 but vetoed by Governor Edgar D. Whitcomb. Two years later, after winning the governorship, Bowen signed into law bills containing many of the vetoed provisions. Then, with Democrats controlling the House in 1975-1976 and the Senate in 1977-1978, Bowen protected and nurtured property tax relief in the face of partisan attempts to modify it. The struggle originated with the bill that Whitcomb vetoed, a bill that also provided the name for "a little known, low profile group known as the 1288 Club." Formed with a nucleus of twelve members shortly after the 1971 session adjourned, this club was composed of lobbyists for "a cross-section of the Hoosier business structure," including the heads of the state and Indianapolis chambers of commerce, the Farm Bureau, the retail, telephone, petroleum, and gas associations, and a few private corporations. Bowen called the first meeting of the group and sought its support in his campaign for governor in 1972. Then, under the leadership of Governor Bowen in 1973, the General Assembly passed legislation that "made major structural and philosophical tax changes" in order to achieve property tax relief.[49] The changes shifted much of the tax burden in the state from property to the sales tax. The Democratic party, joined by labor unions and those who did not own homes, opposed these changes that came about only after the legislature struggled with two Republican governors holding opposite views regarding tax law.

Although he always had Republican majorities in both houses, Governor Whitcomb was frequently at odds with the legislature. The sessions of 1971 and 1972 were especially noted for reconsidering bills vetoed by Whitcomb and overriding his vetoes. Whitcomb was found wanting, according to Edward Ziegner, because he "never had any real rapport with the men and women who served" in the legislature. "Nor did he ever really have a detailed, solid program to present."[50] The governor's program regarding taxes was quite simple: no tax increase. Whitcomb spelled out his position in a "state of the state address"

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[48] *Senate Journal*, 1977, pp. 398, 806, 807; *House Journal*, 1977, pp. 773, 850; *Laws*, 1978, pp. 36-37; Indianapolis *Star*, April 4, 1977; Indianapolis *News*, February 28, 1978.

[49] For the 1288 Club, "Indiana Group entertains Bowens," Indianapolis *News*, April 7, 1986. For an overview of the changes, see Donald W. Kiefer, *Indiana Public Finance, Past and Present: Report of the Commission on State Tax and Financing Policy* (Indianapolis, 1974), 32-33, quotation, 32.

[50] Indianapolis *News*, March 11, 1972. For examples of action regarding vetoes, *ibid.*, January 15, 19, 1971, and Indianapolis *Star*, February 24, 29, 1972.

on January 13, 1971, before a joint session. Warning against "tremendous forces working in favor of increasing our taxes," he said he would never approve any such legislation. Nonetheless, Speaker Bowen steered a package of four bills through the House that would have provided a 25 per cent reduction in property taxes by doubling the sales tax, increasing the adjusted gross income tax and the corporate net income tax, and establishing budget control boards in each county. A few days after the package barely cleared the House, the governor took the extraordinary step of accepting an invitation to speak at a legislative conference for Democratic county and district chairmen. He "received a strong ovation" from Democrats gleeful to see a rift in Republican ranks. After denouncing the property tax relief in Bowen's measures as "a myth," Whitcomb asked Democrats to join him in opposition: "Give me a chance and we'll do more, give more genuine property tax relief than any package that has been offered so far . . . and with no increase in taxes."[51]

Bowen's proposals, dubbed "super-tax" by the press, were amended in the Senate and required a conference committee. On April 1, both houses defeated a conference committee report that retained the essentials Bowen wanted. Shortly before midnight on April 6 the report was resurrected and adopted 52 to 47 by the House, 26 to 22 by the Senate. Whitcomb promptly vetoed the bill: "When the history of the 97th session of the General Assembly is written, it will present a record of solid accomplishment for the benefit of all the people of the State of Indiana. . . . But all of these accomplishments have been overshadowed by a struggle for increased taxes." He urged citizens to contact their state legislators and ask them to sustain his veto. On April 13, seventeen Republicans joined 37 Democrats in the House to uphold the veto by a 54 to 43 vote. The press reported "'Grass Roots' Credited In 'Super-Tax' Defeat." Bowen blamed the governor for the defeat and noted that prospects for property tax relief were also "dim" in 1972, an election year. Bowen's assessment proved accurate as the conflict between Whitcomb and the legislature made the 1971 and 1972 sessions the first in a decade that did not produce major tax legislation.[52]

The situation changed after Bowen made property tax relief the major issue in his successful campaign for governor in 1972 and Republicans also swept the legislative races. With a well-disposed governor enjoying majorities of 30 to 20 in the Senate and 73 to 27 in the House, cuts in property taxes seemed assured at the 1973 session. In addition, the average state property tax rate exceeded $10 per $100 of assessed valuation by that year and homeowners were demanding substantial cuts. Despite such favorable circumstances, however, the struggle for property tax relief proved as bitter and difficult as it had in 1971.

Secrecy was the major reason Bowen encountered difficulties with the legislature. On Wednesday, January 24, the House ways and means committee conducted a public hearing on four bills incorporating the specifics of the tax

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[51] Indianapolis *Star*, January 14, February 22, 1971.

[52] *Ibid.*, April 1, 10, 14, 1971; *House Journal*, 1971, pp. 552, 553, 1726, 1952; *Senate Journal*, 1971, pp. 1394, 1735, 2049; Kiefer, *Indiana Public Finance*, 32.

program. Although the governor had announced that his plan was ready a few days earlier, only summaries of the bills were available to the public. According to committee chairman John C. Hart, an Indianapolis realtor, the ingredients came "from past bills and we called in leadership from the House and Senate and Governor. We met for 90 days." Hart lamely added "We did not publicize where the meetings were to be held. If anyone wanted to come into the meetings, they probably could have." It became apparent at the hearing that the bills were comprised of old and new elements. Old features included doubling the sales tax and increasing the corporate net income tax. Revenue from these increases would go into a property tax relief fund and property taxpayers would get a 25 per cent reduction in property taxes. New ingredients, intended to gain support, included an increase in state aid to local schools to compensate for the anticipated freezing of property tax levies at the rate in effect in December, 1972, and a 1 per cent tax on adjusted gross income that counties could impose on their residents to offset lost property tax revenue. The latter revenue was to be used first for additional property tax relief and could be used later for operating costs.[53]

Although Bowen contemplated massive tax changes, because of the secrecy only twenty-four persons spoke at the first public hearing and only six endorsed the package. A spokesman for the Indianapolis Human Justice Commission summarized the feelings of many opponents: the hearing was no more than a "token gesture in order to say that the public had an opportunity to express their views." In response to such criticism Hart held a second hearing on January 30 at which thirty-five persons spoke after having an opportunity to study the details of each bill. According to the press, four out of every five speakers opposed all or parts of the package. Then the bills were sent to the full House and on February 7, after "two hours of frequently impassioned debate," all four passed. The twenty-seven member Democratic bloc was solidly opposed and as many as thirteen Republicans joined in opposition.[54]

The four-bill package was then assigned to the Senate finance committee chaired by Lawrence M. Borst. Under his direction, there were additional hearings and extensive changes were made by way of amendment. One change included exempting food from the doubled sales tax and removing the yearly sales tax credit on individual income taxes. Another provided an income tax credit for renters. The corporate adjusted gross income tax was set at 3 instead of 4 per cent, and a new 2 per cent net income tax was imposed on corporate profits. The committee also recommended lowering the property tax reduction from 25 to 20 per cent, providing income tax credits for low income elderly and disabled persons, and hiking state aid to local schools by almost $10 million. After these changes, the package was reported to the full Senate with a "do pass" recommendation.[55]

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[53] Indianapolis *Star*, January 26, 1973.

[54] *Ibid.*, January 26, 31, February 8, 1973; *House Journal*, 1973, pp. 404, 405, 1471-73.

[55] Indianapolis *News*, February 23, 27, 1973; Indianapolis *Star*, February 23, March 6, 1973.

The prospects for property tax relief were not promising on March 14, the day the Senate was to vote on its amended version of Bowen's tax program. Eight Republicans were known to be opposed to all or parts of the plan. Their votes, when joined to those of their twenty Democratic colleagues, would kill the all-or-nothing package. The critical first vote on H.B. 1144, the local option income tax bill, was called by President *pro tempore* Phillip E. Gutman in late afternoon. When the roll call ended the voting machine showed a 22 to 26 defeat for the Bowen administration and the party leadership. With Leslie Duvall and a lone Democrat still to vote, Gutman held the machine open. Duvall, stating that "At some point . . . we must relieve local government from the chains and the inequity of sole reliance on the property tax," voted yes. After a last Democrat voted no, with Gutman still waiting at the controls, Charles E. Bosma of Marion County switched from no to yes. With the count standing 24 to 26, Leo O. Sullivan of Miami County, with assurances that the bill would go to a conference committee, followed Bosma's example. Lieutenant Governor Robert D. Orr "announced quickly and firmly 'The chair votes aye'" and the bill was saved 26 to 25 seven excruciating minutes after the first roll call of 22 to 26. Orr repeated his performance three more times as all four bills passed with identical 26 to 25 roll calls. The Indianapolis *Star* described the proceedings as "the most dramatic event of a decade in the General Assembly." It was more than that: Orr had made legislative history. Neither Orr nor the press realized the historical significance of the moment. Lieutenant governors under the second Constitution voted as a matter of course if the Senate divided equally on a question of indefinite postponement of a bill or on concurrence in a committee report. Richard O. Ristine's famous casting vote in 1963 was an instance of the latter. But never since 1851 had a lieutenant governor delivered a casting vote on passage of a bill. On March 14, 1973, Orr did so not once, but four times.[56] At a press conference immediately following Orr's votes, Bowen lauded his lieutenant governor—"He has the same idea I have in government."

Later, in a television appearance, Bowen expressed special dissatisfaction with the Senate's exemption of "food for consumption" from the sales tax. That would include meals in restaurants and carry-out orders from fast food chains. "I didn't say exempt food, I said exempt groceries and there is a difference." Soon the governor and Senate President *pro tempore* Gutman were at odds. "I don't have much maneuvering room," said Gutman, adding that Bowen would have to give more help than he did on the March 14 votes in the Senate "which, if I paraphrase it, was none." Gutman also objected when Bowen got approval for his tax expert, Indianapolis attorney John B. King, to prepare the conference committee reports. On April 5, the House approved King's drafts on all four bills but the next day the Senate rejected the sales tax draft 22 to 28. Once

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[56] Indianapolis *Star*, March 15, 1973; *Senate Journal*, 1973, pp. 592, 593, 1212, 1213. The only known instance of a casting vote on passage of a bill during the pioneer period occurred in 1820. Lieutenant Governor Ratliff Boon's vote enabled a divorce bill to pass 6 to 5. See above, p. 110.

again property tax reduction appeared to be dead for the session. Yet, as Edward Ziegner of the Indianapolis *News* pointed out, "like Lazarus, bills do rise from the dead . . . ." The resurrectionist in this case was Republican Speaker of the House Kermit O. Burrous who took the unusual step of lobbying for Senate Democratic votes if the upper house reconsidered the sales tax bill. On April 13, the last working day before adjournment, Democrats Robert E. Mahowald of South Bend and James M. Plaskett of New Washington "defied party leadership" and joined twenty-three Republicans to say yes to the sales tax. The legislative careers of Mahowald and Plaskett ended because of their votes; both lost favor with the Democratic party and were defeated in their next primary election. Their action allowed Lieutenant Governor Orr to issue his fifth casting vote of the session. The conference committee report was adopted 26 to 25, and reports on the other three bills passed 26 to 23 on identical roll calls.[57]

The four laws established the basic structure for state tax policy through the mid-1980s. One doubled the sales tax while exempting groceries and orthopedic devices. Food sold in restaurants, for carry-out consumption, or by vending machines or vendors, would be taxed, as would candy, chewing gum, alcoholic beverages, cocktail mixes, and soft drinks. Counties were permitted to impose a local option tax of 1 per cent on adjusted gross income with the revenue spent as local government decided so long as one fourth of 1 per cent went to reduce property taxes. Thirdly, Bowen got the substantial property tax relief he had promised, although the amount of relief was reduced from the 25 per cent he sought to about 20 per cent. The relief would be overseen by two statewide control boards empowered to rule on property taxes levied by school boards and by local government. The package also increased the net income tax and gross income tax rates of corporations; allowed renters to deduct up to $1,000 a year from income for taxation purposes; provided additional tax relief for the elderly and the disabled; and increased state aid to public schools.[58]

On April 19, the sixty-first work day, the legislature passed budget bills providing "the largest two-year spending program in the state's history." The major bill, H.B. 1100, provided $2.209 billion of general fund appropriations and passed 34 to 16 in the Senate, 69 to 17 in the House. Other bills provided a construction budget and a higher education operating budget that added to a total budget figure of $4.04 billion for the next biennium. Also adopted on the last day was a so-called technical amendments measure that imposed a tax on a tax by making the sales tax applicable to existing excise taxes on cigarettes and gasoline. The first session of the 98th General Assembly, having given Bowen all major ingredients of the fiscal program he sought, ended its work when the Senate adjourned at 11:52 p.m., followed by the House at 11:55 p.m.[59]

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[57] Indianapolis *Star*, March 15, 23, April 3, 6, 7, 14, 1973; Indianapolis *News*, April 7, 1973; *House Journal*, 1973, pp. 1220, 1349, 1688-90, 1730; *Senate Journal*, 1973, pp. 1038, 1040, 1335-37. For the fates of the two Democrats, Richard B. Wathen, *Legislative History of Clark County, 1972-84* (n.p., n.d.), 5.

[58] *Laws*, 1973, pp. 175-202, 204-26, 239-78, 1222-31.

[59] Indianapolis *Star*, April 20, 1973; *House Journal*, 1973, p. 1404; *Senate Journal*, 1973, p. 1119; *Laws*, 1973, pp. 1887-1964, 229-39.

Except for Senators Mahowald and Plaskett, who switched only on the last four roll calls, Democrats in both houses voted as a bloc against Bowen's tax reform. This circumstance, when coupled with projections indicating that the freeze on property taxes would make local governments pressed for revenue by 1977, ensured that the tax package of 1973 would be a matter of partisan division during the next two years. Bowen's potential problems with the legislature were compounded in 1974 when Democrats, for the first time in ten years, won control of the House. The election followed President Richard M. Nixon's resignation due to the Watergate scandal and was the first following the doubling of Indiana's sales tax. At the 1975 session the Democratic House struck at the tax program in an effort to weaken Bowen's chance for reelection. Due to an amendment ratified by the voters in 1972, he was the first governor under the second Constitution eligible to run for a second consecutive term.

In January, 1975, the House passed the first part of what Democrats hailed as a tax relief program. The measure struck at the heart of the property tax relief fund by providing a thirty day sales tax holiday and a ninety day sales tax ban on new car purchases. At the same time the Republican Senate passed a program based upon the governor's recommendations for more sales tax exemptions, more tax relief for the elderly and disabled, and a one year plan of state revenue sharing with cities, towns, and counties.[60] The governor did not reject Democratic proposals "out of hand" but suggested that a conference committee could iron out the differences. As the session progressed, however, the two houses grew farther apart. The House dropped its plan for a sales tax holiday and, with eyes on 1976 and a chance to embarrass Bowen, it substituted an annual appropriation for the traditional biennial appropriation. On March 27 Bowen stated "Any tinkering with the property tax replacement fund is a big no-no." By the end of April he said that an annual budget "will not be the end of the world." The governor stressed his preference for a two-year budget because "it would be cheaper. The less opportunity there is to change it, the less chance there is to increase it." He might have added that a biennial appropriation would also provide less chance to embarrass him in an election year. The compromise, worked out in a race with the clock before midnight on April 30, left property tax relief unscathed for 1975. A Bowen-endorsed measure exempting eyeglasses, false teeth, and prescribed medical equipment from the sales tax was also included. Democrats got the first annual budgeting since pioneer days. This guaranteed that the 1976 short session would have to consider appropriations anew. Democrats also kept the existing $1,000 income tax exemption for taxpayers, and increased the exemption for dependents from $500 to $750. The income tax deduction for families that rented was allowed to expire.[61]

The 1976 session proved the least disciplined short session ever and resulted in no serious modification of the state's tax and revenue structure. In November

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[60] Indianapolis *News*, January 25, 1975.

[61] *Ibid.*, January 25, March 27, April 30, May 1, 1975; *House Journal*, 1975, pp. 765, 1067; *Senate Journal*, 1975, pp. 752-53, 1019; *Laws*, 1975, pp. 1821-1991, especially Section 25, p. 1918, making it clear that the appropriation is for one year only.

the property tax relief program that made Otis Bowen the most popular governor in fifty years led to his reelection by landslide proportions. But he would face a divided legislature again in 1977 as Democrats won the Senate while Republicans recaptured the House. As a result the first session of the 100th General Assembly was the fourth consecutive long session marked by a bitter conflict between the legislative and executive branches over property tax relief. Conflict proved unavoidable between a governor "who considers the 1973 property tax replacement plan the crown jewel of his first four years in office, [and] doesn't want any major tampering with the plan" and legislators "in both parties" who wanted modifications. Democrats were determined to force alterations in the property tax freeze unacceptable to Bowen. An impasse developed and as the end of the session approached it appeared that no appropriation or budget bills would be passed. Speaking to the Indiana Retail Council four days before the legally mandated last day, Bowen said "we appear to be teetering on the brink" of a special session "for no real, compelling or necessary reason." Acceptable compromises were not forthcoming and a few minutes before midnight on April 30 the legislature adjourned, the first session since 1963 to do so without passing a budget.[62]

The differences were worked out in conference committee between May 1 and May 23, the day the first special session of the 1970s convened. In one day fourteen bills containing compromise provisions on appropriations and budget passed handily. The most important of the measures was H.B. 2189, dealing with property tax controls. It retained, as Bowen insisted it must, the freeze on school property tax levies while permitting limited property tax increases for other purposes.[63]

Otis Bowen's insistence on property tax relief dominated each long session from 1971 through 1977, engendering the most continuous and acrimonious conflict between the executive and legislative branches during the decade. Each time the matter was not resolved until nearly the last minute on the last day. The decade began with Bowen on the legislative (and losing) side of the conflict as speaker of a House confronting a governor who killed tax relief with a veto. As a former speaker turned governor in 1973 Bowen finally won, but only because of dramatic and historic casting votes by his lieutenant governor and defections by two Democrats. In 1975 the governor successfully defended the essentials of his program against an assault launched by a Democratic House. The outcome was in doubt until the last day, however, and Bowen won only because of a Republican Senate. In 1977 a Democratic Senate tried one last time to strike at the property tax relief fund. Rather than compromise, Bowen forced the first special session since 1965. After it met for one day, his property tax relief emerged intact. Except for a minor victory in the short session of 1978, when Democrats

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[62] Indianapolis *News*, January 3, April 26, 1977; Indianapolis *Star*, April 26, May 1, 1977.

[63] *House Journal*, 1977 (s.s.), 4; *Senate Journal*, 1977 (s.s.), 7; *Laws*, 1977, pp. 67-87; Indianapolis *Star* and Indianapolis *News*, May 24, 1977.

succeeded in removing the sales tax on the gasoline excise tax (the so-called tax on a tax), it remained in place during the rest of his second term.[64]

Running For Office

A man who struck the press as a "country gentleman," as one of the "old school," has represented Clark County in the House from 1973 to the present. In some ways Richard B. Wathen was and is typical of members of the Indiana legislature; in other ways he is not. He was born in 1917 in the family homestead on a farm three miles from Jeffersonville. Now about 150 years old, the house was purchased by his grandfather in 1880 and has been Wathen's home throughout his legislative career. Wathen inherited wealth from the family liquor business established by his grandfather. He attended preparatory school in Connecticut and graduated from Princeton University with a major in English literature. He also is a practicing attorney with a degree from Indiana University. Wathen has published three books: *Cliffs of Fall* (1953); *The Only Yankee* (1970); and *Wathen's Law: The Hang-ups of an Indiana Politician* (1981). The latter, described by one reviewer as necessary reading for "all who want to know more about Indiana, its politics and its people," carries the most complete account in print about running for the General Assembly in the 1970s. During World War II he was a member of the boarding party from the aircraft carrier that captured the German submarine U-505, now displayed at the Museum of Science and Industry in Chicago. After the war he worked two years as a newspaperman in North Carolina and served as an agent for the Central Intelligence Agency (CIA). In the 1950s he was part of an operation in the Adriatic Sea that monitored communist activities in Bulgaria and Albania. "It was supposed to look like a biology expedition," said Wathen. He ran for his first office in 1962 and, after failing in a series of primary elections, in 1970 he won the Republican nomination for Congress but lost to Lee Hamilton in the general election. Wathen ran for the Indiana House in 1972 and won.[65]

He became the first Republican elected to the House from Clark County in thirty years and only the second in the twentieth century.[66] In 1976 Wathen was reelected to serve in the 100th General Assembly. He won that year for the same reason he won every election between 1972 and 1986—he worked at winning. His method showed that in some essentials campaigning for the Indiana legislature had not changed since the first candidate was elected to the first General Assembly. Candidates have always sought as much public exposure as possible. In pioneer days that meant stump speaking and canvassing the district on foot or horseback. In Wathen's day meeting the electorate meant marching in parades: "Office seekers love to march in the big parades, on Veterans Day or St. Patrick's Day, and I am usually among them."[67]

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[64] Indianapolis *Star*, March 10, 1978; *Laws*, 1978, pp. 851-61.

[65] Indianapolis *News*, January 26, 1981; Wathen file, Centennial History, ISL.

[66] Prior to Posey W. Cooper (1943), no Republican had served the county in the House since 1887. Wathen, *Legislative History of Clark County*, 4.

[67] Wathen, *Wathen's Law*, 21. Unless otherwise noted, the account of Wathen's campaigning is drawn from Chapter II, "Politicking U.S.A.," 21-49.

Wathen's formal campaign for a seat in the centennial session began on the morning of April 22, 1976, in the parking lot of a shopping mall in Clarksville. This was shortly before the primary election and the candidate showed up attired in "a yellow sports shirt, light-weight gray flannels and a white golf hat," riding an "ancient single-speed Schwinn Traveler." He joined some eighty youngsters and two other adults for a charitable "cyclethon" (bike ride). The riders were accompanied by a contingent of adults, an excellent source of potential votes. Those present included the Tri-County Shrine Motor Brigade riding mini-scooters, a karate instructor on a motorcycle, police officers in three squad cars with flashing red lights, and cyclethon officials riding in assorted beach buggies and other vehicles. On primary day, about two weeks later, Wathen made the rounds of the polls in his district and won nomination for his third term.

Wathen used standard ploys like sunrise visits to factory gates in his campaign for the November general election. He would arrive with an ample supply of matchbooks bearing the message "Compliments of Dick Wathen, your state representative" for judicious distribution to potential voters. "I enjoy doing this . . . as much as I enjoy anything about politicking and campaigning," Wathen wrote. "These are the strong people of America, and to shake hands with them, look them in the eye and exchange a greeting is inspiring." It also proved worthwhile as Wathen won his third term as representative from Clark County.[68]

In addition to telling readers what campaigns were like in the 1970s, Wathen's book also provided thoughtful insight into the psychology of politicians. Historically most legislative candidates have been impelled by monumental egos yet overshadowed by those seeking more prestigious offices. As Wathen notes, however, legislative aspirants are likely to be more concerned with their own election "than with who is elected President of the United States. This is the way politicians are, the way we think, and the way we feel. Your own race is the most important thing in the world." In his view, the candidate who did not run scared was likely to wage a losing campaign. Winners, on the other hand, could usually say with Wathen:

> I am sure that much of the drive sending me on the campaign trail is an unquenchable need for reassurance. . . . I go from one day to the next, from one meeting to another, driven by an inordinate need to be reassured. . . . [The] frenzy of campaigning at election time is by no means just a matter of winning an election. It is a way of life. No politician will wait until an election approaches to make his appeal to the voters. In some form or another, he is campaigning every minute of every day, and in the darkness of the night he is dreaming and thinking of some subtle way to avenge an opponent or how to reward a loyal friend.[69]

Wathen's account of canvassing the electorate, the parades and handshaking required to win, describes the efforts of innumerable people elected to the Indiana

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[68] *Ibid.*, quotations, 22, 24, 28. "WATHEN WILL DO MORE FOR CLARK COUNTY" boasted one of the signs always posted by the candidate at the polls on election day. Throughout his career he tried to live up to that boast, and he was especially proud of a bill he authored that called for uniformity of the spelling of Clark County in the Indiana Code. "Not all legislation is of monumental importance," Wathen noted. "Frequently, the spelling Clarke had been found, and I wanted to correct this long-standing mistake." Wathen, *Legislative History of Clark County*, 22.

[69] Wathen, *Wathen's Law*, 45, 30.

General Assembly. Due to Public Law No. 2 passed in 1973, however, a few served without engaging in a public canvass. The act, directed at filling vacancies, provided that precinct committeemen from the district where the vacancy occurred, and of the same political party as the person who had held the seat, would elect the successor. The election was to be by majority vote of the committeemen with the time, place, and date set by the party's state chairman.[70] Lillian M. Parent of Hendricks County was one of the lawmakers to benefit from the act. She was elected a state representative in the normal fashion in 1976 and 1978. Parent resigned her House seat on January 26, 1979, the same day that precinct committeemen chose her to complete the term of Senator Paul W. Swisher, who had died. So far as is known she thereby became the first Indiana legislator to serve in both houses at the same session. According to the press, she was certainly the first to author bills in one house and sponsor them for passage in the other. Three bills she wrote were passed by the House before her election to the Senate, whereupon she became Senate sponsor. When each passed the upper house unanimously Lieutenant Governor Orr "paused briefly to acknowledge Mrs. Parent's historical accomplishment before moving on to other Senate busi[n]ess."[71]

Contested Elections

There were fifty-eight contested elections during the first sixty general assemblies under the second Constitution. Thirty-five of the contests (60 per cent) arose between 1851 and 1887, with thirty-four settled on the basis of strict partisanship. During that era contests were most likely when a United States Senate seat was at stake, as in 1887 when House Republicans and Senate Democrats threatened literally to unseat the minority to maintain a tie vote on joint ballot. Seventeen contests arose between 1891 and 1909, and in nine of these cases the majority seated a minority contestant. After 1914, when election of United States senators was placed directly in the hands of voters, only six contests were filed. Five times the majority party seated a minority contestant. In 1951 Republican senators seated a Republican to give their party a 26 to 24 advantage, indicating that when it really counted, partisanship prevailed.[72] Thus, for sixty years prior to the 1970s contested seats were rare, with an average of less than one contest per decade. By contrast, the 1970s were marked by a sharp rise in the number of contests, with at least one case at each long session through 1977. The peak year was 1975 when the 99th General Assembly witnessed numerous dramatic contests, an indeterminate number of lawsuits and countersuits, and the first party bolt in fifty years.

The decade of contests was initiated when two Republican candidates for the House filed a vote recount suit in Clark County in 1971 challenging the

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[70] *Laws*, 1973, pp. 2-4. Representative Stephen H. Stoughton of Indianapolis was the first legislator elected under the law. The committeemen elected him July 9, 1973, to complete the term of John C. Hart, who resigned. Indianapolis *Star*, July 10, 1973.

[71] Indianapolis *Star*, March 16, 1979.

[72] For contested elections from 1851 to 1969, see above, pp. 227-28, 371-72, 525-26.

seating of Democrats Walter J. Beneville and James A. Lewis, Jr. The speaker was served with a copy of the suit on the opening day of the 97th General Assembly and appointed a five-member committee to investigate. Although the press reported that witnesses would be subpoenaed by the committee, the *House Journal* is silent on further developments. Beneville and Lewis retained their seats until the end of the term.[73]

In 1973 Republicans Maurice H. McDaniel of New Albany and Daniel E. Huff of Indianapolis were seated by the House at the organization day meeting over objections by Democrats. McDaniel retained his seat after a recount showed him still the winner. Huff's residency was questioned in a lawsuit brought by his opponent; he kept the seat when the Marion County Circuit Court ruled that he met legal residency requirements. A third case led to the first unseating of a senator since 1901. Marvin F. Klaes, a chiropractor from Seymour, was sworn in November 15, 1972, an apparent eleven vote winner over incumbent Republican Earl Wilson. Wilson regained the seat on January 8, 1973, on a 29 to 20 party line vote after a recount showed him the victor by 41 votes. The Senate recessed before the vote to allow an embittered Klaes to speak. He said the recount occurred because Republicans "didn't steal enough [votes in Orange County], and they had to go back a second time." He also castigated a Republican member of the committee that decided the issue: "As a devil's advocate, Senator [Robert L.] Sheaffer [of Shelbyville] is about as effective as a water boy on a swimming team." Frank L. O'Bannon offered philosophical support to his fellow Democrat, noting that while there are many ways to skin a cat, "it's always bad for the cat." O'Bannon added that he was not sure who the cat was in the case at hand but "I sort of think it's the Indiana State Senate." The Klaes-Wilson contest was the most rancorous since before World War I; Klaes' one working day as a senator also marked the briefest tenure in that body during the twentieth century.[74]

The election of 1974 was held in the immediate aftermath of the Watergate scandal and was the first since the Republican-controlled General Assembly of 1973 doubled the sales tax. As a result, Democrats enjoyed their best showing in any state election between 1972 and 1984. On election night it became clear that they would control the House of Representatives for the first time since 1965. The only question was the size of their majority. Certified results showed that in three races the winner had less than sixty votes more than his opponent: in District 20, Democrat James P. Jontz of Williamsport edged incumbent John M. Guy of Monticello by two votes; in District 23, Republican incumbent Robert Beauchamp of Wabash edged Loren E. Winger by sixteen votes; and in District 44 in Indianapolis Democrat John P. Flanagan, Jr., edged Lyman T. Black by fifty-four votes for the third spot in a three-seat, multi-member district. Results in several other districts showed winners and losers separated by only a few

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[73] *House Journal*, 1971, p. 11; Indianapolis *News*, January 25, 1971.

[74] *House Journal*, 1973, pp. 6, 7; *Senate Journal*, 1973, pp. 5, 27-29; Indianapolis *Star*, January 9, 1973.

hundred votes. Challenges and recounts were inevitable and, when the General Assembly organized on November 19, it did so amidst the greatest uproar over contests since 1887. The seats of at least five Republicans and three Democrats were at stake. Fifty-five Democrats and forty-five Republicans assembled to organize and the majority approved a rules change by a 54 to 45 party line vote that gave a select committee full power to conduct all recounts and hearings regarding contested seats. Democrats enjoyed a five to three advantage on the committee.[75]

The District 44 seat from northeastern Marion County was the first reclaimed by Democrats. On the day after the election party officials discovered that votes from a precinct adjoining District 44, but actually cast in District 43, had been erroneously counted. The County Election Board admitted the error and declared Flanagan a winner along with Republicans Stanley C. Boyer and Daniel E. Huff. A contest arose when Democrats demanded a recount for all three seats. Before the issue was settled, Republicans got an injunction to impound the ballots, a move that prevented the House committee from recounting the votes. The committee retaliated with a motion recommending that Boyer and Huff be punished for filing the request for an injunction. If the House had approved this action when it reconvened on January 6, the two legislators could have been expelled, ordered to stand aside until a recount was completed, or removed from all committees. None of this eventuated because the injunction was lifted and the committee finally conducted its recount. On January 15, 1975, following the committee's recommendation, the House declared Boyer, Huff, and Flanagan the winners.[76]

House Republicans protested the recount procedure and, during the interim between the November organization and January convening, their state chairman filed thirty-one recount petitions with the clerk of the House. Although most of these races were not close enough to warrant a recount, Speaker Phillip E. Bainbridge admitted that Republicans "are following the procedures of the [recount] committee." A Republican spokesman added that the party would have filed petitions in all fifty-five races the party lost except several candidates would not consent to have their names included.[77] When the House reconvened on January 6, 1975, the committee reported on all contests except those in Marion County. The majority recommended reversing the result in only one race, District 23, where Beauchamp had been certified the winner. In reaching its decision, the committee disallowed 152 absentee ballots uninitialed by poll workers and determined that Loren Winger was the winner by twenty-three votes.

When the majority report was presented the Republican minority asked for and received permission to caucus for "15 to 20 minutes." Forty of the forty-five Republicans then absented themselves for the rest of the day—the first party

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[75] *House Journal*, 1975, p. 6; Indianapolis *Star* and Indianapolis *News*, November 20, 1974.

[76] Indianapolis *Star*, November 10, 1974, January 14, 1975; Indianapolis *News*, December 20, 21, 1974; *House Journal*, 1975, p. 52.

[77] Indianapolis *Star*, November 28, 1974.

bolt since Senate Democrats took a bus ride to Dayton, Ohio, in 1925. According to sources who spoke to the Indianapolis *Star*, the seating of Winger was unacceptable and the caucus agreed to break quorum "without dissent." Democrats responded by invoking the rule that allowed the speaker and a minimum of seven members to compel attendance and issue an order for the fine and censure of any member who remained absent. A motion passed directing principal doorkeeper Charles F. Fleming (a former secretary of state and state senator) and "such members of the Indiana State Police as the House may call to assist him" to arrest the absentees. Fleming made only a cursory search for the Republicans and the State Police were not called. Meanwhile, Minority Leader Burrous called a press conference and announced "We have not broken quorum . . . we're still in caucus." He admitted the tactic was a protest against the seating of Winger but conceded Republicans would lose the seat because "We can count."[78]

The missing members, faced with censure and a $50 a day fine, were in their seats the next day to witness the inevitable as Loren Winger became a legislator. Before taking his seat, Winger told his new colleagues "My desire is that you give me a chance." Loser Beauchamp, with a crestfallen wife and son looking on from the gallery, asked members to "Heal your wounds." He added that Winger would have to "fight for his job" in two years and left the chamber to a standing ovation. A week later Beauchamp changed his mind and filed suit asking a federal judge to name him a member of the General Assembly. Winger nevertheless kept the seat until he lost for reelection in 1982.[79]

The centennial session occasioned the last contest of the decade and one of the longest recounts in the history of the legislature. In the 1976 general election Democrat Thomas J. Wheeler of Shelbyville defeated incumbent Robert L. Sheaffer by 21,111 votes to 21,096. Democrats controlled the Senate and when Sheaffer asked for a recount Wheeler remonstrated on the grounds that the Senate is the only judge of its members. When the Shelby County Circuit Court impounded the ballots anyway Wheeler appealed to the state Supreme Court. The high court in May, 1977, issued a writ prohibiting a recount. In the meantime, Wheeler held the seat. Sheaffer appealed for a rehearing and in December the high court reversed itself and allowed a recount. Before the second session of the 100th General Assembly convened on January 9, 1978, and almost fourteen months after the ballots had been cast, the recount showed Wheeler a winner by seventeen votes.[80] Thus ended the last of at least nineteen contests that were filed during the 1970s, more than three times as many as during the previous sixty years.

Speakers of the House

Otis R. Bowen, Kermit O. Burrous, and Phillip E. Bainbridge were the three speakers during the 1970s. (See Appendix A, Table 1.) Immediately after

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[78] *Ibid.*, January 7, 8, 1975.

[79] *Ibid.*, January 8, 1975; Indianapolis *News*, January 16, 1975.

[80] Indianapolis *News*, January 9, 1978; *Senate Journal*, 1977, pp. 2, 13.

completing his term in 1972, Bowen was elected governor, serving until 1981. In 1985 President Ronald Reagan named him secretary of Health and Human Services, the largest department of the executive branch of the federal government. Bowen was thus the only speaker in the history of the legislature who later wielded executive power at the highest level of state government and at the cabinet level of the federal government.[81] Burrous, from Miami County, was a farmer, former insurance agent and securities salesman, and active in the Methodist church. He presided at six sessions from 1973 through 1980 when Republicans controlled the House; in 1975-1976 he was minority leader. Bainbridge, a practicing lawyer from Lake County, was speaker during the one term that Democrats enjoyed a majority.

When the Republican caucus chose Kermit Burrous for speaker in November, 1972, it selected "the type of farmer who plows his own fields, though he has attended law school and dresses more like a lawyer than farmer." A legislator since 1961 and majority caucus chairman at the sessions from 1969 to 1972, Burrous prevailed over three competitors on the first ballot. He was selected again when Republicans controlled the House after the 1976 and 1978 elections and thus served for an unprecedented six sessions as speaker.[82] During those years Burrous gained his legislative objectives as effectively as anyone who ever wielded the gavel in the House. In the process he gained recognition as the man who steered Bowen's programs through a frequently recalcitrant body while maintaining the respect of opponents in both parties.

Burrous' mettle was illustrated in 1974 during an intraparty squabble with Representative Donald T. Nelson of Indianapolis. Nelson was chairman of the Marion County delegation in the House and as such sponsored a bill to make Indiana University-Purdue University, Indianapolis, an autonomous university, independent of the Bloomington campus, under the name University of Indiana at Indianapolis. Nelson was also chairman of the House public policy committee. In this capacity he withheld some key measures wanted by the Bowen administration and by Burrous. Nelson also controlled, as chief sponsor, initial action on a proposal to amend the state Constitution so that the secretary of state, auditor, and treasurer would be elected at the same time as the governor. The latter bill was especially desired by the Republican state organization. Nelson intended to keep these measures hostage until Burrous called the university bill for passage. Exercising an authority rarely used—or required—the speaker responded by lifting bills from Nelson's committee and assigning them elsewhere. Nelson, a veteran legislator, understood that this meant anything with his name on it "is dead." Burrous put it differently: "I told [Nelson] we didn't need it; we had made other arrangements." After a five-day battle the Indianapolis *Star* reported the outcome: "'U. of Indianapolis' Victim of House Feud." The speaker got action on the bills he favored while Nelson's bill for a separate state university died.[83]

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[81] For Bowen's speakership, see above, pp. 533-39.

[82] Indianapolis *Star*, November 14, 1972, February 28, 1980.

[83] *Ibid.*, January 26, 30, 1974; Indianapolis *News*, January 26, 1974. The proposed amendment

After eighteen years in the legislature Burrous retired in 1980 to run for the office of lieutenant governor. He was defeated in an extraordinary, four-way primary race where his opponents included Senator John M. Mutz of Indianapolis, former state Commissioner of Motor Vehicles Ralph Van Natta, and a virtually unknown municipal employee from Indianapolis, Gary L. Benson. Observers foresaw a tight race, with Benson not expected to be a factor. Mutz won with 158,000 votes to 153,000 for Van Natta, 150,000 for Burrous, and 59,000 for Benson. Burrous lost because of an unusually strong set of candidates and a fluke. In most counties candidates appeared on the ballot in alphabetical order and Benson came before Burrous. According to Mutz' campaign manager the name placement was crucial: "I think Benson cost Burrous the election."[84] Except for an accident of the alphabet, Burrous probably would have been elevated to the second highest office in state government. When he retired after eighteen years in the legislature, Burrous summed up his career. He saw passage of property tax relief in 1973 as a "milestone." He also pointed to his support of Unigov in 1969 that brought in some needed rural votes in its favor and his years as chairman of the rules committee (1967-1972) when the rules were changed to open the House to more public scrutiny.[85] Undoubtedly one of the dominant figures in state government during the 1970s, Burrous is remembered as an effective leader respected by the opposition and as the speaker who presided over more sessions than any of his predecessors.

The leadership cadre of the Democratic party in the House was missing at the 1973 session. Richard C. Bodine and Frederick T. Bauer, leaders since 1965, suffered electoral defeats in 1972: Bodine for lieutenant governor and Bauer for reelection. In addition, many rank and file Democrats were swept away in the landslide defeat of presidential candidate George S. McGovern. The McGovern debacle reduced Democrats from forty-six representatives at the 97th General Assembly to twenty-seven at the 98th. As a result the Democratic House caucus chose a thirty year old lawyer from Lake County as minority floor leader in November, 1972. Phillip E. Bainbridge was first elected in 1966 but said his interest in the legislature actually went back to 1953 "when he was about 10 years old." That was the year his father, Senator Eugene H. Bainbridge, first served in the Senate.[86] The elder Bainbridge remained a senator until his death in 1972 and during the sessions of 1967, 1969, and 1971 Eugene and Phillip established the longest concurrent tenures for a father and son in the history of the Indiana General Assembly. Phillip became speaker when Democrats captured the House in 1974.

The subsequent session, which began with an unprecedented number of contested seats, was the stormiest of the decade. House Democrats were especially

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to the Constitution passed both houses in 1974, but was not repassed by the next General Assembly. *House Journal*, 1974, pp. 404, 849; *Laws*, 1974, p. 691.

[84] Indianapolis *Star*, May 11, 1980; Edwin J. Simcox, *Primary Election Report of the Secretary of State of the State of Indiana, 1980* (Indianapolis, 1980), 9.

[85] Indianapolis *Star*, February 28, 1980.

[86] Indianapolis *News*, December 1, 1972.

frustrated as most of their proposals to modify Governor Bowen's tax program died in the Republican Senate. Much of the frustration was vented on Speaker Bainbridge. Toward the end of the session, when the speaker supported repeal of a law banning the use of phosphate detergents in Indiana, he faced an open revolt in his own party. The revolt was led by Representative B. Patrick Bauer of South Bend, an advocate of environmentalism in the General Assembly.[87] Bauer gained national attention at his first session in 1971 as author of a landmark bill that made Indiana the first state in the nation to limit the use of phosphates. He wanted action because studies showed that phosphate detergents "killed" lakes and streams by causing excessive algae growth, reducing oxygen and causing fish to die. The studies estimated that 70 per cent of the phosphorus in the water came from household detergents and entered lakes and streams from sewage treatment plants of municipalities. Bauer's bill passed 73 to 11 in the House and 38 to 1 in the Senate; it gave a state board control over detergents and provided fines up to $1,000 for each violation.[88]

Soap manufacturers launched an intensive lobbying campaign to get the law repealed at the 1972 and 1973 sessions, but both times Bauer prevented action as a member of the House public health and environmental affairs committee. Then, in 1974, the House voted 55 to 43 to repeal the 1971 act and the repeal measure passed to the Senate where it was assigned to the environment and ecology committee. Committee chairman Marlin K. McDaniel of Wayne County, a Republican and as staunch an environmentalist as Bauer, killed the measure by refusing to call it to a vote. In doing so, McDaniel incurred the wrath of spokesmen for the detergent industry. According to McDaniel, these spokesmen threatened to destroy his political career and engaged in "the most expensive and unethical (lobbying) effort I have ever witnessed in the General Assembly."[89]

In 1975 Bauer became chairman of the House public health and environmental affairs committee and thought his phosphate ban safe. Soon, however, he was at odds with Bainbridge because the speaker favored repeal. After the Senate passed a bill to lift the ban, Bainbridge bypassed Bauer by assigning the bill to the House agriculture committee. In a bitter showdown on the floor, Bauer was supported by thirty-nine of fifty-six Democrats who voted to overturn the speaker's assignment of the bill. "If Kermit Burrous had kept his Republicans in line, we'd have overthrown Bainbridge then and there," Bauer said later. As it turned out, the agriculture committee killed the repeal by a bipartisan 7 to 2 vote on March 26.[90]

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[87] Telephone conversation between Bauer and author, July 11, 1986. The account of Bauer's role in the fight over phosphates was derived from this conversation and from the Bauer file, Centennial History, ISL.

[88] *House Journal*, 1971, pp. 1051, 1405, 1634, 2104; *Senate Journal*, 1971, pp. 1341, 2036; *Laws*, 1971, pp. 689-90; Indianapolis *Star*, April 10, 1971.

[89] "McDaniel Charges Political Threats By Phosphate Lobby," Indianapolis *Star*, February 6, 1974.

[90] Indianapolis *News*, March 26, 1975; telephone conversations between Bauer and author, July 11, August 14, 1986.

After the session ended, Bainbridge became one of the few speakers ever attacked publicly by members of his own party. The assault was led by Bauer who told the press that the speaker should be removed because he was influenced by gifts and free airplane rides from lobbyists. Bauer even asked Republican Attorney General Theodore Sendak if it would be legal to elect a different speaker for the 1976 short session. According to the press, Sendak replied that the House had the right to pick its leaders in whatever manner it wanted. Bauer's criticism was seconded by Democrats James L. Clingan of Covington, chairman of the insurance and corporations committee, and Edward E. Goble of Batesville, chairman of the roads and transportation committee. As the Indianapolis *News* noted:

> Usually, these verbal attacks by members of the same political faith are carried out behind closed doors in caucus meetings. Washing dirty linen in public is looked upon by most politicians as bad form and something to avoid.

Bainbridge, citing personal animosity on Bauer's part, denied any wrongdoing and declared "I do not intend to seek retribution."[91]

Although Bauer, Clingan, and Goble retained their committee assignments in 1976, other Democrats found reason to oppose their speaker. The greatest furor occurred when Bainbridge handed down for reconsideration a bill that the House had already rejected. The measure was pushed by beer distributors and would have required retailers to purchase from nearby wholesalers instead of transporting beer from wherever in the state they found the cheapest price. This so-called "beer baron" legislation was heatedly contested on a nonpartisan basis at almost every session of the 1970s and 1980s. Opponents claimed such a law would raise prices because beer wholesalers could monopolize supply in their market area. John P. Flanagan, an Indianapolis Democrat, called the bill a "Frankenstein monster, because it keeps coming back after being killed" as he led the fight against a speaker of his own party. The bill passed 52 to 42 when Bainbridge handed it down for reconsideration but Governor Bowen vetoed it. The House sustained the veto at the next session.[92] Bainbridge, younger than most of his predecessors and apparently a poor administrator, is remembered as one of the few speakers from any era to be attacked primarily by members of his own party.[93]

Senate Leadership

On November 16, 1970, at the first caucus of Republican senators during the decade, Phillip E. Gutman of Fort Wayne and Leslie Duvall of Indianapolis were the candidates for president *pro tempore*. According to Lawrence M. Borst, who attended the caucus, Gutman ran on a platform "to let the Senate run the

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[91] *Ibid.*, June 16, 1975.

[92] Indianapolis *Star*, February 11, 1976, February 17, 1977; *House Journal*, 1976, pp. 290, 424-25; *ibid.*, 1977, p. 400; *Senate Journal*, 1976, p. 311.

[93] Bainbridge, at age thirty-two in 1975, was the third youngest speaker in the twentieth century. Oliver B. Torbet, twenty-five years old at the 1853 session, was the youngest speaker ever; Charles H. Bedwell, thirty years old in 1915, was the youngest during the twentieth century.

Senate" and won by one vote, 15 to 14.[94] The caucus also elected Martin K. "Chip" Edwards of New Castle caucus chairman. Edwards defeated James A. Gardner of Fowler for the post 15 to 14, the same vote by which Gutman was elected. The new president *pro tempore*, in what appeared to be a move for unity, then named Gardner majority floor leader. At a second caucus a week later, on November 23, Gutman removed the power of Lieutenant Governor Richard E. Folz to appoint committees, to assign bills to individual committees, and to name members of conference committees. The action was sustained by the caucus 22 to 6 with one abstention. Folz told the press that the action was the latest in a series of moves to remove the lieutenant governor from the Senate. He said "I was more than willing to accept the responsibilities that went along with those powers," and stressed that Gutman and his backers must now accept the responsibility, along with the power of making appointments.[95]

Authority to run the Senate was transferred from the lieutenant governor to the Senate leadership ostensibly because Gutman's supporters felt the power should rest with the majority leader elected by senators themselves. Proponents of the change saw it as a move that would give greater balance between the legislative and executive branches of government. As a result, no lieutenant governor since 1970 has wielded the influence that grows out of the power to appoint committee members. Folz, the first one targeted by the change, summarized his feelings flippantly at the end of the first session in which the new rules applied:

> The work has been less. The authority has been less. The responsibility has been less. The pay has been more. Anyone would be foolish not to like that.[96]

The powers to preside and to issue a casting vote in the event of a tie, both given by the state Constitution, were all that remained for the lieutenant governor in the legislative process. Both Folz and Robert D. Orr exercised this last prerogative on several occasions.[97]

The triumvirate of Gutman, Edwards, and Gardner retained their leadership positions through the 1976 session. Then Gutman retired from the Senate to be succeeded by Robert J. Fair when Democrats won control for the centennial sessions. Since Republican Lieutenant Governor Orr was reelected in 1976, the right of the president *pro tempore* to run the Senate remained nearly absolute. The most noteworthy feature of Fair's tenure was that Senate Democrats attacked their president *pro tempore* in 1977 in a manner similar to the way House Democrats attacked Speaker Bainbridge in 1975. Elden Tipton of Jasonville was

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[94] Borst to author, April 30, 1985, Borst file, Centennial History, ISL. (For Senate leadership in the 1970s, see Appendix A, Table 2.)

[95] Indianapolis *Star*, November 24, 1970.

[96] *Ibid.*, April 17, 1971.

[97] Orr's votes on passage of Bowen's tax relief program in 1973 were the most dramatic instances of a lieutenant governor giving a casting vote on a crucial issue. In 1971 Folz gave a similar vote to sustain Governor Whitcomb's veto of a bill that allowed tax credits for contributions to non-public schools. In 1977 Orr did the same to sustain Bowen's veto of a liquor bill. Indianapolis *News*, January 19, 1971; Indianapolis *Star*, February 17, 1977.

disgruntled with Fair's handling of Republican Governor Bowen's tax and budget proposals. In a speech from the floor Tipton said Fair was "not only arrogant, but pompous and sanctimonious" in the way he presided. Tipton was stopped when Republican John Mutz invoked a rule that one senator shall not impugn the motives of another. Democrat Herman Fanning moved that Tipton be allowed to continue but the motion was defeated on a voice vote. Unlike Bainbridge, Fair responded by stripping Tipton of his chairmanship of the roads committee.[98]

After Republicans recaptured the Senate in 1978 they elected Edwards as their leader; he exercised full power as president *pro tempore* during the 101st General Assembly and then, under duress, resigned his seat in 1981. As for Gardner, he was named chairman of the state Highway Commission in 1977. The story of Senate leadership under Gutman, Edwards, and Gardner did not terminate with the end of their Senate careers. The three were judged co-conspirators in one case that was part of the greatest scandal of the twentieth century involving legislators who used positions of leadership to commit crimes.

The criminal activity began at the 1972 session with what a reporter on federal government affairs for the Indianapolis *News* sarcastically described as "a simple little bill." S.B. 289 dealt with unobstructed views of railroad crossings when it was introduced by Caucus Chairman Edwards. In the following weeks Edwards made two additional motions regarding the bill and each carried by voice vote. One requested that it be reassigned to a different committee; the other removed Edwards as co-author. The new committee gutted the language dealing with railroad crossings and inserted new language affecting Indiana's full crew statute—a law that trains traveling across the state must employ a minimum number of crew members. The Indiana Railroad Association had opposed the full crew statute for decades, arguing that it amounted to "featherbedding." The bill, as rewritten in committee, relaxed the full crew requirement and became law. The vote on final passage in the Senate was 28 to 18, with Democrats largely opposing. President *pro tempore* Gutman, Majority Leader Gardner, and Edwards were among those voting with the majority.[99]

S.B. 289 might have remained obscurely ensconced as Public Law No. 65 on pages 488 and 489 of *Laws*, 1972, except for the tragedy that befell "Chip" Edwards. In July, 1980, the Senate leader was indicted on federal charges of accepting $8,000 in bribes from lobbyists to influence the passage of a bail bonding bill during the 1979 session. While his trial was pending he refused to resign as president *pro tempore* or to withdraw as a candidate for reelection to a fourth term. In December, after winning his seat again but being ousted as Senate leader, Edwards was convicted of extorting money from a group of bail bondsmen, of bribery, of making false statements to a grand jury, and of "corruptly" influencing a grand jury witness. On January 6, 1981, the day before the 102nd General Assembly convened for its long session, Edwards resigned

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[98] Indianapolis *News*, May 25, 1977.

[99] David Rohn, "S.B. 289 Was A Simple Little Bill," Indianapolis *News*, February 25, 1982. This story offers a detailed analysis of how the bill became law.

his seat. Three weeks later he was sentenced to six years in prison. The full crew law of 1972 still might not have entered the picture except that Edwards failed to report the bribes as income to the Internal Revenue Service. The IRS began a separate investigation in September, 1980, and by the time of his conviction in the bail bond case Edwards also faced charges of failure to pay his income taxes in full. Soon the federal probe covered dozens of lobbyists who had dealings with Edwards and several legislators came under investigation for possible influence peddling. Howard Odom, executive director of the Indiana Railroad Association and chief lobbyist for the railroads in 1972, was among those subpoenaed by a federal grand jury.[100]

Edwards had testified at his trial that Odom paid him, Phillip Gutman, and James Gardner $53,000 to secure repeal of the full crew law. This revelation led to the indictment of Gutman and Edwards in 1982 on charges of extortion. Odom was also indicted, charged with obstruction of justice for ordering one of his employees to destroy records of the alleged payoff. Gardner, who committed suicide in 1978 while chairman of the state Highway Commission, was named a part of the conspiracy. At the time the crime was committed in 1972, Gutman was Senate president *pro tempore*, Edwards was Gutman's majority caucus chairman, and Gardner was Gutman's majority floor leader. According to the evidence, the three leaders split the $53,000 that Odom paid to Edwards. Trial on the charges was set to begin February 22, 1982. But Edwards—already serving sentences on charges of accepting a bribe and violating income tax laws—and Odom both pled guilty before the trial began. Gutman thus was tried alone; he was found guilty on two counts of extortion on March 11, 1982. After exhausting his rights of appeal, Gutman became the second president *pro tempore* of the 1970s to serve time in prison for actions committed in an official capacity while serving in that office.[101]

The fates of Gutman and Edwards made questionable the "reform" whereby the lieutenant governor was stripped of most of his powers as presiding officer of the Senate. Each man played a key role in the maneuver before the 1971 session that placed those powers in the hands of the president *pro tempore*. The following year the two men engaged in an extortion plot and were bribed in return for favorable action on a controversial bill. Edwards and a lobbyist confessed to their roles in the conspiracy; Gutman was convicted and sentenced to prison for his role; Gardner, the third participating senator, had committed suicide before the facts came to light. Indeed, the facts probably would never have been known had not Edwards been indicted, convicted, and sentenced to prison for misusing the new powers of the president *pro tempore* in a second case that originated at the 1979 session. As the Indianapolis *News* noted regarding

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[100] The account of Edwards' difficulties is drawn from the Indianapolis *Star* and the Indianapolis *News*, July, 1980, through February, 1982, *passim*. Both newspapers covered each development extensively, and the more important articles are indexed by date in the Indianapolis Newspaper Index, Indiana Division, ISL. For the first mention of Howard Odom being subpoenaed, "New U.S. Probe Of Lobbyists, Legislators," Indianapolis *News*, January 27, 1981.

[101] Indianapolis *Star*, February 22, 1982; Indianapolis *News*, March 11, 1982.

the widespread political corruption involving Gutman and Edwards as presidents *pro tempore*: "Their unchecked ability to control committee appointments and to control the assignment of bills to committee gave both men the opportunity to engage in legislative influence peddling." The newspaper said this in an editorial urging caution in the face of a proposed constitutional amendment to end the lieutenant governor's role in the Senate. The editorial added that the presence of a lieutenant governor as presiding officer was one check against possible legislative abuse and concluded that there were also "some practical reasons" to maintain the office as currently constituted. These included the fact that whoever holds the office can be a bridge between the legislative and executive branches of government and can issue casting votes when the Senate is tied.[102]

The Legislators

Three hundred seventy-four persons filled the 1,200 seats available in the legislature between 1971 and 1986, including 269 separate individuals who served only in the House, 128 only in the Senate, and twenty-three who served in both houses.[103] Two hundred seventy-two of these lawmakers (72.7 per cent) were native-born Hoosiers; ninety-nine were born in other states; and three were foreign-born. (See Appendix A, Table 4.) Except for the increase in the number of blacks, the ancestry or ethnicity did not deviate substantially from previous eras; nearly two thirds of Indiana's lawmakers remained of German or English extraction. The mean age for representatives was 45.4 years; that of senators 48.4 years. The oldest senators were John F. Augsburger of Kosciusko County and Angeline P. Allstatt of Marion County. Each was seventy-one years old at the 1976 session. Graham A. Richard of Allen County, age twenty-eight at the 1975 session, was the youngest senator. Allen County also contributed the youngest representative, Mitchell V. Harper, who was twenty-three years old at the 1979 session. Anna Maloney of Lake County, eighty-one years old at the 1972 session, was the oldest representative during the era and the oldest woman ever to serve. John W. Donaldson, a lawyer from Lebanon, retained his seat throughout the period. Since the legislature met annually, this meant Donaldson served at sixteen sessions through 1986. When six sessions between 1957 and 1969 are added to his total, Donaldson's twenty-two sessions stand as the most ever served by one individual in the history of the legislature.[104]

Law continued to be the leading occupation, with seventy-three lawyers (19.5 per cent) numbered among the individuals who served. Public employees (forty-seven) replaced farmers (thirty) as the second most numerous occupation,

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[102] Indianapolis *News*, November 18, 1985.

[103] All statistical material in this chapter is based upon quantification of the data in *A Biographical Directory of the Indiana General Assembly* (2 vols., Indianapolis, 1980, 1984), Vol. 2, *1901-1984*.

[104] Glenn R. Slenker, Sr., who served at every session but one between 1929 and 1969, retains the record for years of service. See above, p. 567. (For tenure in the legislature during the 1970s, see Appendix A, Table 6.)

with thirty-seven public school teachers, six public safety employees, and four professors from state colleges or universities serving. The others pursued a variety of occupations, including twenty-six businessmen, twenty merchants, eighteen insurance agents, and twelve realtors. (See Appendix A, Table 7.) One hundred sixty legislators (42.7 per cent) served on active duty in the nation's military forces. (See Appendix A, Table 8.) Three hundred ten (86.1 per cent) attended a college or vocational school after high school. (See Appendix A, Tables 9-10.) At least 178 lawmakers also held an office on the city or county level, 154 of them before their service in the General Assembly. Four legislators—Adam Benjamin, Jr., Danny Lee Burton, H. Joel Deckard, and Philip H. Hayes—advanced to the United States House of Representatives after their service; a fifth, Earl Wilson, served several terms in Congress before he was elected a state senator. Samuel L. Reed (House, 1973-1976, Delaware County) and Daniel A. Manion (Senate, 1979-1982, St. Joseph County) were the only legislators of the era to become federal judges and Otis R. Bowen was the only one to serve in a president's cabinet. (See Appendix A, Table 11.) Politically, during a period when Republicans dominated state government, 458 of the 800 House seats (57.2 per cent) were held by Republicans, as were 234 of the 400 Senate seats (58.5 per cent). Republicans controlled both houses during twelve of the sixteen sessions; Democrats controlled the House at the 1975 and 1976 sessions, the Senate at the 1977 and 1978 sessions. (See Appendix A, Table 12.) The religious affiliation of all but five lawmakers is known, with Methodists (107 or 28.6 per cent) continuing to be the most numerous. Roman Catholics, with seventy-three adherents, were the second most numerous, followed by forty-three Presbyterians, thirty-six who affiliated with the Disciples of Christ (Christian) church, twenty-seven Baptists, and sixteen Lutherans. Not more than seven individuals affiliated with any other single denomination. (See Appendix A, Table 13.)

Edward Ziegner, the frequently cynical State House correspondent, found the personnel of the General Assembly so improved in 1972 that he voiced unusual optimism. Ziegner wrote that "the general quality in House and Senate is high, probably as high as it has ever been . . . and there is a legitimate seriousness of purpose which was infrequent a decade ago and almost unheard of 20 years ago." He attributed the change to "a strong infusion of talent, much of it young, in both House and Senate and in both parties" in the late 1960s.[105] Democrat Adam Benjamin, Jr., of Lake County and Republican John M. Mutz of Indianapolis epitomized the young talent that Ziegner had in mind. Both men were born in 1935 and arrived on the scene at age thirty-two as freshman representatives at the 1967 session. Both were elected to serve in the Senate in 1971 where they retained a dominant presence until advancing to higher office. Indeed, Benjamin was the most acclaimed lawmaker of the era, lauded by colleagues in both parties and by the press as probably the best Indiana lawmaker since World War II and one of the best in the history of the legislature.

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[105] Indianapolis *News*, January 8, 1972.

Mutz received similar, bipartisan plaudits as he gained "the remarkable reputation of political 'boy wonder'" by 1976.

Benjamin was one of seven children born to immigrant parents in Gary. He joined the United States Marine Corps during the Korean War and then accepted an appointment to the United States Military Academy at West Point. After deciding against an army career, Benjamin earned a law degree at Valparaiso University and became active in the politics of Lake County. As a legislator he read every bill in its entirety before casting his vote, the only legislator within memory known to do so. Benjamin, who served until his election to the United States House of Representatives in 1976, was without question the most competent Democrat in the General Assembly during the 1970s. His role as a minority member who steered the medical malpractice law of 1975 through a Republican Senate illustrated his dedication to duty.

When the 1975 session convened citizens and health care professionals faced a critical problem because of the prohibitive cost of malpractice insurance. Many doctors were threatening to leave their profession and hospitals were threatening to close. A health care crisis was certain unless the legislature acted with dispatch. A satisfactory solution required that someone break through the competing claims by doctors, lawyers, and insurance companies to frame legislation putting a cap on exploding malpractice premiums. Even a perfect bill faced an additional, and potentially insurmountable, obstacle—Democrats controlled the House while Republicans controlled the Senate. Thus, after the Democratic House passed a bill addressing the problem, it faced an uncertain fate in the Senate. At that point Benjamin became chief sponsor and orchestrated "shepherding this measure on its tortuous way" to becoming law.

> It was [Benjamin's] facility as an amender and also obviously as a conciliator, arbitrator and general get-togetherer that became a principal factor in the Legislature's prompt response to what obviously was a critical public problem, medical malpractice insurance.[106]

The resultant legislation made medical malpractice a shared risk by establishing a patients' compensation fund. The dollar amounts of claims and attorneys' fees were limited by the statute, as were the dollar amounts insurance companies could charge for premiums. The act also established a bipartisan Medical Malpractice Study Commission to make a detailed study and recommend a permanent solution. Senator Benjamin reportedly worked without sleep for three days rewriting the legislation until it was acceptable to attorneys, physicians, and insurance companies.[107]

John Mutz, a native of Indianapolis, graduated from Northwestern University in 1958 with a master's degree in business management. By 1967 he and a few associates had converted a floundering leasing company into a $40 million

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[106] "Benjamin Gets It Done," Indianapolis *News*, April 10, 1975.

[107] *House Journal*, 1975, p. 660; *Senate Journal*, 1975, p. 830; *Laws*, 1975, pp. 854-69; Indianapolis *News*, September 7, 1982; Benjamin file, Centennial History, ISL. Benjamin's career ended tragically in September, 1982, when he died in Washington, D.C., at age 47. The press reported that "he was seen as a 'comer' destined for a high place in Democratic House leadership."

enterprise. He also became secretary-treasurer of Burger Chef, Inc., a chain of thirty-one fast food restaurants operating in a three-state area. As a legislator, Mutz gravitated toward problems of state finance and won renown as chairman of the state budget committee. In 1976 an unidentified but "influential" Senate Democrat stated "John Mutz is the most capable man in the Indiana Senate." The praise was echoed by Republican Senator Lawrence M. Borst, chairman of the Senate finance committee: "He knows more about urban problems and financial matters than anyone I know, including myself, and that is a difficult admission to make." According to the press Mutz rose rapidly because he relied on reason and compromise rather than strong-arm tactics to accomplish his goals. He also avoided two favorite pastimes of senators—introducing quasi-celebrities and sponsoring resolutions in praise of high school athletic teams. "I really don't want to sound pompous because I don't mean it that way," Mutz explained, "but I think we should make better use of the taxpayers' time and money." He concentrated instead on ethics legislation requiring full financial disclosure from state officials. Mutz wanted to succeed Richard Lugar as mayor of Indianapolis in 1975 but was denied the crucial support of party leadership for the nomination. Deferring to party unity, he remarked "Indiana politics is a good deal like the weather. If you wait around long enough, it will change." The weather for the Senate's "young financial wizard" changed in 1980 when he won nomination and election to the office of lieutenant governor. In 1984 Mutz won a second term as Governor Robert D. Orr's running mate.[108]

Democrat Spencer J. Schnaitter of Jefferson County and Republican Floyd B. Coleman of DeKalb County were among others who entered the legislature in the 1960s and either stayed or returned to play important roles during the 1970s. Schnaitter, a star center on the 1950 Madison High School basketball team that won the state championship, captained the Yale University basketball team as an undergraduate and then earned a law degree from Indiana University. He served his first term at the 1963 session and returned in 1973 to serve continuously until 1980. In 1975 and 1976, the only two sessions when his party enjoyed a majority, Schnaitter chaired the powerful House ways and means committee. Known affectionately as "Big Bear" because he stood at a commanding six feet, four inches tall and weighed around 300 pounds, Schnaitter tried futilely to sell Democratic tax and budget proposals to Senate Republicans. "I've just about had it with the boys across the hall," he thundered on one occasion. Schnaitter also made a concerted effort to belie any Ivy League image. "He plods around the legislative halls hunched over slightly. Sometimes, his clothes are a little disheveled, as if he had slept in them." But this was charade, for underneath stood "a sharp, intelligent lawyer" who was one of his party's most effective legislative leaders during the decade. Schnaitter also loved to sing and dance during off hours at a pub just east of the State House. "He has been described as a splendid dancer, with a flair for the polka," one reporter noted.[109]

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[108] Indianapolis *Star*, February 1, 1976; Mutz file, Centennial History, ISL.

[109] Indianapolis *News*, February 11, 1976; Schnaitter file, Centennial History, ISL.

Coleman, a doctor from Waterloo, was known for dispensing medicine to ailing legislators, their staffs, and newspapermen during his eight years in the House between 1969 and 1976. Described as a "sometimes bucolic Republican physician, who likes to wear Ben Franklin type glasses," Coleman had a droll wit. For example, when the House considered a bill to regulate wigs, Coleman stated that the roots of the hair grow deeper as men grow older. "In some men they hit the gray matter and the hair turns gray. In other men, these roots don't hit anything. These are the fellows who become bald." On another occasion, after Coleman's personal check was refused, he showed up at Republican state headquarters to pay a $6,000 filing fee with 500 pounds of coins stuffed in two milk pails and a half dozen bags. Coleman saved his sharpest barbs for federal bureaucrats afflicted with "'Potomac Fever,' a serious, contagious, usually fatal disease. The symptoms are delusions of grandeur and hallucinations." Upon his retirement after the 1976 session, Coleman looked forward to making a tour of Israel with a church group that included singer Pat Boone.[110]

Republicans Lawrence W. Voelker and Robert L. Jones, Jr., were noteworthy because they were unusual clergymen. Voelker, an assistant pastor at St. Patrick's Catholic Church in Indianapolis, was elected to complete the term of Choice Edwards at the 1972 short session. He was the only Catholic priest to serve in the Indiana General Assembly and was remembered for giving "straightforward answers to questions by fellow legislators." Shortly before his half term ended, this cleric-politician noted candidly that there "is more politics in health care" than in the two major parties. Voelker served long enough to be confused by the legislative process; he concluded near the end of his thirty days that "Society is becoming so complicated and so regulated people can't respond to each other any more."[111]

Jones, a natural crowd pleaser with a pleasant voice, stood an imposing six feet, five inches tall and was "one of the most sought-after and persuasive speakers at the Statehouse." An educational consultant with a Doctor of Education degree from Indiana University when first elected in 1966, Jones became one of the most controversial ministers who ever served. Reared as a Methodist, he underwent a spiritual conversion in 1971 and soon he was "speaking in tongues." He started his own Faith Congregation Church and by 1977 he ministered to 400 charismatics who worshipped weekly in the auditorium of a former Catholic high school. Probably the only faith healer to serve, Jones believed that "The gifts of the Spirit are as alive today as ever before." He concluded that his particular gift of healing was in the chest area. He also believed that sometimes God told him how to vote. At least he claimed that he voted against a bill to aid epileptics in 1975 while thinking "'How can you vote against epileptics?' . . . but the Lord directed me to vote 'no.'" Candid enough to admit that speaking in tongues and laying on hands "sounds like 'freaky stuff' to the average person,"

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[110] *Ibid.*, February 19, 1976.

[111] Voelker file, Centennial History, ISL; Indianapolis *Star*, November 16, 1971; Indianapolis *News*, February 26, 1972.

this minister-lawmaker at the same time claimed that cancer was God's punishment for sin: "Jones believes that cancer . . . is a product of fear, self-pity, despair and unforgiveness, an affliction that eats at the soul until it begins to devour the body." The career of Indiana's most unabashedly charismatic politician ended suddenly when Jones died of a heart attack while vacationing in Louisiana shortly after the 1979 session adjourned.[112]

The 100th General Assembly

In 1976 the United States of America observed the 200th year of its birth amidst the pomp and circumstance appropriate to such an occasion. A yearlong bicentennial celebration, the work of a national commission that coordinated efforts by similar commissions in each of the fifty states, marked the culmination of a decade of planning. As a result, the American heritage of two centuries of self-government and republican institutions was brought into special focus; many citizens were more history conscious than ever. A special circumstance made the year additionally significant for Indiana; the legislature was to convene on November 16 for the organizational day of its centennial session. This milestone, unique in the fifty states during the nation's bicentennial year, could not be overlooked by lawmakers, and Representative Walter J. Roorda of Demotte was one of the first to recognize its significance. In 1975 lawmakers approved Roorda's resolution requesting that the Legislative Council authorize an interim study committee to plan a suitable commemoration of the 100th General Assembly. The council appointed such a committee on June 12, 1975, and planning for the centennial session began immediately after that date.

The interim committee drew upon sixty years of precedence involving legislative support for significant milestones in state history. The session of 1915 initiated the practice when it established the Indiana Historical Commission to direct the state's centennial observation in 1916.[113] In 1925, the legislature changed the commission's name to the Indiana Historical Bureau and made it a permanent agency charged with preserving and promoting the history of the state. In 1957, realizing that Indiana would have the 150th anniversary of her statehood in 1966, the legislature authorized an even more elaborate celebration of an historical milestone. It established the Indiana Sesquicentennial Commission and at an initial meeting in 1960 this commission set its objectives: "To help Hoosiers and their neighbors celebrate the 150th Birthday of the state, to provide information which would help them remember their past, appreciate their present, and become aware of the state's potential in the days to come." These objectives were largely realized because they were supported by the legislatures of the 1960s. By 1966, at the commission's instigation, twenty special markers were placed at sites of significant historical interest throughout the state and another twenty were planned for later placement. A Historymobile—"a traveling museum on wheels"—visited all ninety-two counties in 1966 and 1967 to better acquaint Indiana children with

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[112] Jones file, Centennial History, ISL; Indianapolis *Star*, February 13, 1977, May 7, 1979.
[113] See above, p. 302.

their heritage. The most lasting fruit was a projected multi-volume sesquicentennial history covering Indiana's 150 years of development.[114]

With the state sesquicentennial celebration fresh in mind and the national bicentennial celebration looming, and with the added incentive of a legislative centennial to commemorate, the interim study committee of 1975 directed that a Centennial History bill be drafted for consideration by the 1976 session. The bill created a permanent Select Committee to direct the preparation of a scholarly history of the first 100 general assemblies. The measure, coauthored by Representatives Catherine Van Arsdale of Indianapolis and Roorda, passed the House 56 to 36. In the Senate, with Robert D. Garton and Burnett C. Bauer as cosponsors, the bill was amended and passed 45 to 1. The bill then returned to the House for concurrence with the Senate version and was approved by a 51 to 37 vote, a bare constitutional majority.[115] Senator Garton was named chairman of the bipartisan Select Committee on the Centennial History of the Indiana General Assembly and Representative Van Arsdale was named vice-chairwoman. In August, 1976, the Legislative Council expanded the responsibilities of the committee to encompass all activities connected with the celebration of the 100th session. These activities included development of a logo for the committee's publications; the preparation of a pamphlet entitled *One Hundred Indiana General Assemblies* that listed presiding officers by session since 1816; the preparation of historical sketches of the legislature for presentation at the beginning of each session day in 1977; and arranging for a Centennial History ball in January, 1978, to conclude the legislature's immediate celebration of its centenary.[116]

Carolyn Colwell of the Louisville (Kentucky) *Courier-Journal* compiled a composite picture of the 150 lawmakers serving at the session the Select Committee was created to honor. She found that:

> In keeping with the state's 162-year tradition, they are citizen legislators. They are lawyers, doctors, farmers, teachers and insurance men who are part-time politicians. They are Ph.Ds and high school graduates. They are Legionnaires and Elks. And they're predominately white, Protestant and male.

In other words the members did not deviate in most particulars from their predecessors since 1816. The only significant change was in the level of education with 44 per cent of the senators and 34 per cent of the representatives having at least one year of post-graduate schooling. This represented an increase of almost 10 per cent since 1967 in the number of legislators with graduate work.

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[114] For the commission's work, Linda Gates Vandivier and Leo Craig, *A Time To Celebrate* (Indianapolis, 1966), *passim*, quotation, 13.

[115] *House Journal*, 1976, pp. 262, 431; *Senate Journal*, 1976, p. 310; *Laws*, 1976, pp. 905-9. For the work of the interim study committee and the history of how the bill was drafted, "Report of Interim Study Committee on the History of the Indiana General Assembly," September 18, 1975, in Select Committee file, Centennial History, ISL.

[116] Select Committee file, Centennial History, ISL; James E. Farmer (ed.), *Session Sketches, A Collection of Historical Articles Telling the Heritage of Today's 100th Indiana General Assembly Meeting in 1977 and 1978* (Indianapolis, 1978).

According to Representative Donald T. Nelson, an industrial psychologist with a Ph.D. who helped Colwell interpret the data, most centennial lawmakers began their political careers with loyal party work in the precincts. Nelson stated this was the traditional way to win nomination "so that the future office seeker learns 'how the organization really functions in the trenches.'" Members of the House spent an average of $1,800 in the 1976 election to win their part-time job paying about $12,000 a year, with Darrell E. Felling spending the most ($8,793) and Rayfield Fisher the least (nothing). By occupation, Colwell found thirty-five lawyers (23 per cent of the members), followed by sixteen farmers and sixteen educators. Like most of their predecessors, legislators at the centennial session also gravitated to fraternal organizations. Freemasons were the most numerous in both houses, as had been the case at almost every session since the beginning. In keeping with the dictum that veterans' organizations always contribute a sizeable number of lawmakers, Masons were closely followed by members of the American Legion. Regarding religion, Colwell found that in 1977 Methodists predominated, followed by Roman Catholics who constituted 10 per cent of the membership. Also, there were nine women and six blacks.[117]

The centennial legislature was as traditionalist in protocol as it was in membership. Since the earliest days each session of each house opened with an invocation by an invited clergyman asking divine guidance for the legislators. In the 1970s Father Charles Doyle, a Catholic priest, offered such a prayer every January at the invitation of his brother, South Bend Democrat Richard D. Doyle (House, 1971-1980). In 1977 the priest was ready with his seventh annual invocatory message. While the function was traditional, Father Doyle's prayer was not. A record number of bills had been introduced and Father Doyle, struck by the unprecedented volume, solemnly intoned:

> Lord, we've got all these bills to wade through. I'll bet if they were laid on top of each other, they would reach at least as high as Mt. Sinai. We can't even read all of them, much less comprehend them. But we'll try the David and Goliath approach and with the strength of the elephant and the stubborn[n]ess of the donkey, and with a whole lot of help from You, we'll end up making life a little better for the people of Indiana. We've got to get busy now, Lord. We'll catch You later.

Father Doyle explained that he intentionally left out "Amen" because "It just didn't seem appropriate." With the amen omitted, many legislators did not know when the prayer ended.[118]

While the composite picture and the protocol suggest that lawmakers of the centennial session were average in most ways, a few members stand out either because of special circumstances or because of their later roles in government. J. Roberts Dailey of Muncie and Danny Lee Burton of Indianapolis were notable among the majority Republicans in the House. Dailey, a freshman

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[117] "Average legislator is male, white, Protestant, educated and outgoing," Louisville *Courier-Journal*, January 8, 1978.

[118] Indianapolis *News*, January 28, 1977; *House Journal*, 1977, p. 151.

in 1977, became speaker in 1980 and was chosen for the post again in 1982 and 1984. Dailey thus tied Kermit Burrous' record by presiding over six sessions. Burton returned to the House in 1977 after an absence of seven years. He advanced to the Senate in 1980, and resigned his seat in 1982 upon election to the United States House of Representatives. Republicans Richard B. Wathen and Walter J. Roorda were centennial session members who also served on the history committee. Wathen succeeded Catherine Van Arsdale as vice-chairman; Roorda has served since the committee's inception. Other noteworthy Republicans were Donald R. Lash, an Olympic gold medal winner, and John W. Donaldson, who holds the House record for number of sessions served.[119]

Notable Democrats in the House included Michael K. Phillips of Warrick County, and brothers Donald E. Hume and Lindel O. Hume. Phillips served as minority leader from 1977 through 1986 while the Humes served the longest concurrent tenure as brothers in the history of the House. Donald represented Pike County for five terms between 1975 and 1984; Lindel represented Gibson County four times between 1975 and 1982. B. Patrick Bauer became ranking Democrat from the House on the history committee in 1977, a position he held through 1986. Other noteworthy Democrats included Arthur R. Murakowski, a former college football all-American; Richard C. Bodine, a former speaker who was narrowly defeated for Congress in 1984 after twenty years of service in the House; and James P. Jontz, a successful Democratic candidate for Congress in 1986.[120]

John J. Day stood out because he embodied the minority party's social agenda. A lifelong resident of Center Township on the near east side of Indianapolis, Day graduated from Cathedral High School, earned a degree in education from Marian College and a graduate degree in government from Indiana University. In 1959 a speech by United States Senator John F. Kennedy inspired Day to believe "that politics was a noble calling for social change." He entered the House in 1975, and at the 1977 session introduced a controversial landlord-tenant rights bill for the third consecutive year. The bill was supported by such groups as the League of Women Voters and the Indiana Students' Association. Opponents, dubbed "pigs" by a law professor who was the measure's chief drafter, included landlords and realtors. The battle became so heated that Day was treated for hypertension after failing to work out compromises to satisfy both sides. A modified bill, introduced in the Senate by Louis J. Mahern, lost 25 to 26 on the casting vote of Lieutenant Governor Orr. Twenty-four Democrats and one Republican voted for the measure; twenty-one Republicans and four Democrats against it.[121] Undaunted, Day continued to sponsor his bill for "reform of Indiana's antiquated landlord-tenant law" at every session through 1986. His other concerns included "prenatal care for poor women, help for latchkey kids

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[119] Dailey, Burton, Wathen, Roorda, Lash, and Donaldson files, Centennial History, ISL.

[120] Phillips, Donald E. and Lindel O. Hume, Bauer, Murakowski, Bodine, and Jontz files, *ibid.*

[121] Indianapolis *Star*, January 27, March 15, 1977; *House Journal*, 1977, pp. 20, 390-96, 438; *Senate Journal*, 1977, p. 428.

left alone by working parents, [and] child-care tax credits . . . ." Day's greatest triumph occurred in 1983 when the legislature enacted his bill requiring child safety restraints in automobiles. An observer writing in 1986 noted that after twelve years of service, Day "remains unique among the state's lawmakers because of his unflagging commitment to social issues."[122]

In 1977 Julia M. Carson and Katie B. Hall were notable among majority Democrats in the Senate because no black woman had ever served in that body. Hall went on in 1982 to become the first black to represent Indiana in the United States House of Representatives. Majority Leader Frank L. O'Bannon of Harrison County and W. Wayne Townsend of Blackford County were other noteworthy Senate Democrats in 1977. In 1971 O'Bannon succeeded to the seat that his father, Robert P. O'Bannon, had held from 1951 to 1969. The O'Bannon family thus has held the seat for thirty-five years, with Frank serving as minority leader from 1979 through 1986. Townsend nearly ended twenty years of Republican dominance of the governor's office in 1984 when he attacked incumbent Governor Robert D. Orr for failing to reform the state's automobile license branch system. Although he lost the election, Townsend's campaign was credited with forcing the Republican legislature of 1986 to pass a law making license branches state agencies. Louis J. Mahern, best known as the Democratic frontrunner for United States senator in 1986 until illness forced him to withdraw, became ranking Democrat on the history committee, a position he has held since 1977.[123]

Republicans in the centennial Senate notable because of their work at the session and their subsequent careers included Robert D. Garton of Columbus. In addition to his work as chairman of the Select Committee on the Centennial History of the Indiana General Assembly, Garton was elected president *pro tempore* in 1980. When he was reelected Senate leader for the 1987 and 1988 sessions, Garton achieved the second longest tenure as president *pro tempore* in the history of the legislature. Only John Van Ness, whose tenure spanned the years from 1944 to 1957, served longer in the post. John M. Mutz was also on the history committee until he became lieutenant governor in 1981; at that point he was replaced by Lawrence M. Borst, a legislator since 1967 and a senator from 1969 to date. Prominent Republican centenarians also included Senator Joan M. Gubbins, who probably garnered more publicity than any other member at both the long and short sessions. Gubbins hit the front pages and the television screens in 1977 by showing a controversial film entitled "About Sex" in the Senate caucus room in an attempt to discredit Planned Parenthood; in 1978 she arranged her famous "Adults Only" display of sexual paraphernalia in the State House in an attempt to discredit those who supported the Equal Rights Amendment.[124]

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[122] Jim Mellowitz, "A Champion of Social Change," *Indianapolis Magazine* (June, 1986), p. 110.

[123] Carson, Hall, Frank L. and Robert P. O'Bannon, Townsend, and Mahern files, Centennial History, ISL.

[124] Garton, Mutz, and Borst files, *ibid.* For Gubbins, see above, pp. 581-82.

Senator Carson gained special attention in 1977 by acting as Senate sponsor for a bill introduced by Representative Danny Lee Burton to legalize laetrile in Indiana. Burton acted to make this controversial treatment for cancer available despite the fact that the federal Food and Drug Administration had refused to approve it as effective for the treatment of disease. The American Medical Association also opposed the use of laetrile, found most commonly in apricot pits, as a medication and Governor Otis R. Bowen, a physician, was a member of the AMA. Nonetheless, many cancer victims and their families supported treatment by laetrile with passionate intensity. Burton's bill would satisfy such people by allowing the distribution and consumption of the substance in Indiana; it passed the House on February 2 with bipartisan support, 85 to 10.

Carson sponsored Burton's bill because, having undergone surgery for removal of a benign tumor, she believed "cancer has no friend. Anyone can have cancer—poor and rich, black and white." Wilfrid J. Ullrich, a pharmacist, typified Senate opponents. He compared laetrile to nineteenth century nostrums and spoke of his grandfather who operated a drug store in Aurora in 1881: "They had home remedies for smallpox and diphtheria that would cure you with one dose. They had to cure you with one dose because they tasted so bad you couldn't take the second."[125]

The bill provoked a day-long battle when it reached second reading in the Senate on March 31. Carson was out of the city and, since only a chief sponsor could call a bill for a vote, laetrile supporters accused her of trying to kill the measure by absenting herself. She was back on the floor by late afternoon and during an emotional exchange, in the course of which Carson was reduced to tears, she asserted that people should have freedom of choice to take laetrile if they wished. Five days later, after amendments, the measure passed 46 to 3. In the meantime, the state Board of Health announced that it would ban laetrile despite legislative efforts to make it legal. Then Burton vowed to amend the bill in conference committee to stipulate that laetrile is not a drug and could not be regulated by the Board of Health. At that point, Bowen said he would veto the measure, which he did on April 22. On April 30, the last day of the session, the legislature overrode the governor and Indiana became the second state to legalize laetrile. The Senate vote occurred at 11:40 p.m. before a packed gallery of supporters who sang "The Battle Hymn of the Republic" and "God Bless America" to show their approval.[126]

The laetrile battle showed that emotions, not logic and reason, still prevailed on occasion in the making of law in Indiana. In this respect, the centennial session proved itself similar to earlier ones where Sunday baseball, prohibition, and daylight saving time were bitterly contested. Indeed, in many respects the General Assembly of 1977-1978 was the quintessence of Indiana legislatures.

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[125] Carson quotation, Indianapolis *News*, April 1, 1977; Ullrich quotation, Indianapolis *Star*, April 6, 1977.

[126] *House Journal*, 1977, pp. 193, 890; *Senate Journal*, 1977, pp. 735, 867-68; *Laws*, 1977, pp. 843-47. See also Indianapolis *Star*, February 3, April 1, 6, 8, 12, 13, 22, 23, May 3, 1977; Indianapolis *News*, April 1, 6, May 1, 3, 1977.

Although the 150 members included more blacks (six) and more women (nine) than had ever served concurrently before, native-born, white, Protestant males were predominate. The record compiled by these centenarians proved that the 100th General Assembly was, above all else, a typically Hoosier legislature.

Historically, the most quintessential characteristic of lawmaking in Indiana has been a steady conservatism that looked upon Washington, D.C., with suspicion if not outright hostility. General assemblies under both parties became controversial as well as famous for asserting states' rights vis-a-vis supposed usurpations by the federal government. Such an attitude was at the heart of the Democratic party's opposition to federal civil rights legislation in the nineteenth century. After the Great Depression suspicion of the federal government was more identified with the Republican party. Under the latter's direction Indiana lawmakers struck blows for states' rights repeatedly with resolutions against federal dictation. This stridency was illustrated in 1978 by Representative Donald G. Boys, a Baptist minister whom the press described as "a very conservative Republican . . . ." If Boys had gotten his way, the centennial session would have memorialized Congress to scrap the Panama Canal treaties, to keep the United States out of African affairs, to collect debts owed to the United States by underdeveloped countries, to stop the World Bank from financing governments in Southeast Asia, and to stop giving American financial support to the United Nations. All of Boys' resolutions died quietly in the House committee on rules and legislative procedure, but they were symptomatic of a provincialism that manifested itself at nearly every session.[127]

With rare exceptions every legislature, no matter how insurmountable its problems might appear, is remembered for one or two landmark measures. The politically divided legislature of 1977, embroiled in a bitter struggle with the executive over taxation and spending, acted positively on at least two such measures. First, it voted to ratify the proposed Equal Rights Amendment to the United States Constitution and second, it passed a law that guaranteed citizens access to committee meetings, hearings, and other proceedings. Florida was the first state to pass a so-called "open door" (or sunshine) law in 1967; by 1978 thirty-seven states had passed such laws. Senator Garton joined with Thomas J. Teague to coauthor Indiana's law, a measure long sought by the Hoosier State Press Association and others who objected to government conducting its business behind closed doors. The law required that deliberations and actions of public agencies, except as specified, be conducted in open meetings. The exceptions included situations where federal or state law required privacy, and deliberations to discuss law suits and future land acquisitions.[128]

The struggle with the governor dominated the 1977 session. Almost without exception since 1816, the perennial subject of money—either how to raise and

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[127] Indianapolis *News*, March 3, 1978.

[128] *Senate Journal*, 1977, pp. 118, 775; *House Journal*, 1977, p. 774; *Laws*, 1977, pp. 343-49; Indianapolis *News*, April 22, 1977; "State Governments Take On New Vigor," *U.S. News and World Report* (March 20, 1978), 39.

spend it or the lack of it—has been of greatest concern for lawmakers. As a result, tax, appropriation, and budget bills customarily became the last order of business. In the best of circumstances, when the same party controlled both houses and the governorship, these bills passed in the closing minutes of the last day. In less ideal circumstances, sometimes in periods of divided government but more usually because of intraparty differences, lawmakers covered the clock and acted on money matters after midnight of the last day. In the worst circumstances, when the parties divided either the legislature or control of the legislative and executive branches, a regular session refused to pass appropriation and budget bills. Then, since state government could not function without money, a special session became inevitable. In fact, ten of the twenty-four special sessions called during the first 100 legislatures were called specifically because lawmakers adjourned without appropriating funds for the next biennium; five others were called either because of deficiencies in money bills or because special appropriations were necessary.[129] The twenty-fourth special session of the Indiana General Assembly—and the only one of the 1970s—was called by Governor Otis R. Bowen when the long session of the centennial legislature adjourned without passing tax, appropriation, or budget bills. Agreement on money matters proved impossible before the April 30 deadline because a Democratic Senate was intent upon modifying tax policy in a way that was unacceptable to a Republican House and governor. Thus, the 100th General Assembly proved itself quintessentially a Hoosier legislature with respect to money matters; in a time when the major parties divided control of state government a special session became necessary to pass appropriation and budget bills.[130]

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[129] The first special session was called in 1858 because the divided legislature of 1857 refused to appropriate funds for Governor Ashbel P. Willard. In 1963 the twenty-first special session was called by Governor Matthew E. Welsh for the same reason. Special sessions also convened in 1861, 1869, 1875, 1877, 1879, 1881, and 1885 because regular sessions adjourned without appropriating funds. One special session was necessary in 1920 to correct deficiencies in tax legislation passed in 1919; money problems associated with the Depression occasioned special sessions in 1932, 1936, and 1938; in 1951 deficient appropriations for welfare made a special session necessary. Nine special sessions did not involve appropriations primarily: the one in 1865 was related to the Civil War; in 1872 legislative reapportionment was the subject of a special session; the first special session of 1920 was called to ratify the women's suffrage amendment to the United States Constitution; that of 1921 dealt with providing a new state reformatory; the two sessions of 1944 were related to World War II; and two special sessions in 1965 grew out of court-ordered reapportionment.

[130] The differences of 1977 were reconciled in conference committee and legislators passed fourteen money related bills in a one day special session on May 23. See above, p. 631.

Bibliographical Essay

This essay concentrates on those sources most essential to a study of the Indiana General Assembly. First it considers published documents and secondary works plus unpublished materials relevant to all, or most of, the legislatures since Indiana became a state in 1816. Then it considers manuscript collections and oral history interviews that deal with the legislature. Next it considers newspapers and other works for the chronological periods into which the study is divided. The essay concludes with a consideration of general works covering Indiana or aspects of American history that were useful in unraveling the story of the state's legislature. No attempt is made to include all items cited in the footnotes, nor is there an attempt to duplicate the excellent bibliographical essays in the multi-volume work, *The History of Indiana*. Four of the volumes to be published in observance of the sesquicentennial of Indiana's statehood have appeared to date: Volume I, by John D. Barnhart and Dorothy Riker, *Indiana to 1816: The Colonial Period* (Indianapolis, 1971); Volume III, by Emma Lou Thornbrough, *Indiana in the Civil War Era, 1850-1880* (Indianapolis, 1965); Volume IV, by Clifton J. Phillips, *Indiana in Transition: The Emergence of an Industrial Commonwealth, 1880-1920* (Indianapolis, 1968); and Volume V, by James H. Madison, *Indiana Through Tradition and Change: A History of the Hoosier State and Its People, 1920-1945* (Indianapolis, 1982). These volumes constitute the most extended study of Indiana history in print for the years they cover; each provided invaluable background for this history of the state legislature.

Legislative Documents

The Indiana *House Journal*, Indiana *Senate Journal*, and *Laws of Indiana* (often known as *Acts*) are the most important official documents. The *Journals* outline the proceedings in each house for each session and include most roll call votes as well as protests lodged by dissenting legislators. *Journals* for the territorial period are reprinted with annotations in Gayle Thornbrough and Dorothy Riker (eds.), *Journals of the General Assembly of Indiana Territory, 1805-1815* (Indianapolis, 1950). The Indiana Division, Indiana State Library (ISL), includes among its holdings copies of the *Journals* from 1816 to date. In addition, stenographic transcripts of proceedings in each house for the years from 1858 to 1887 are in Ariel and William Drapier (comps.), *Brevier Legislative Reports* (Indianapolis, 1858-1887), in the ISL.

The *Laws* contain all acts which became law. *Laws* for the territorial period can be found in Francis S. Philbrick (ed.), *The Laws of Indiana Territory, 1801-1809* (Springfield, Ill., 1930, reprinted Indianapolis, 1931), and in Louis B. Ewbank and Dorothy L. Riker (eds.), *The Laws of Indiana Territory, 1809-1816* (Indianapolis, 1934). The Indiana Division, ISL, has a complete set of *Laws* from 1816 to date. John G. Rauch and Nellie C. Armstrong (comps.), *A Bibliography of the Laws of Indiana, 1788-1927* (Indianapolis, 1928), lists and classifies all laws through 1927 and explains how and when early legislatures sometimes subdivided *Laws* as "general" if they applied to the whole state, "special" or

"local" if they applied more narrowly, and "militia" if they applied only to that body.

Prior to 1835 not many reports of legislative committees or state agencies were printed. Those that were usually appeared in the *Senate* or *House Journal*. A *Documentary Journal* was begun in 1835 and continued until 1912. Unfortunately the early volumes did not provide either a volume number or a general index, and many lacked a comprehensive table of contents. This was remedied somewhat in 1899 when the state authorized publication of "such an index as will reveal and make accessible the several reports contained in these volumes." The Indiana Division, ISL, has a complete set of *Documentary Journals* and the *Index to Documentary Journal of Indiana to 1899* (Indianapolis, 1900).

Rules are of prime importance to an orderly legislative process. The rules governing each house during the territorial period are in Thornbrough and Riker (eds.), *Journals of the General Assembly of Indiana Territory, 1805-1815*. The earliest extant rules for the state Senate are *Standing Rules and Orders . . . Senate* (Indianapolis, 1825); for the House, *Standing Rules and Orders . . . House of Representatives* (Indianapolis, 1833). The Indiana Division, ISL, also has Senate rules for 1849, 1851-1852, 1863, 1867, 1869, 1871, 1879, 1881, and for nearly every session from 1889 to date. It holds House rules for 1849, 1851-1852, 1858, 1861, 1863, 1865, 1869, 1871, 1881, and for nearly every session from 1887 to date.

In the twentieth century, manuals instructing how to draft a bill and steer it into law became as important as rules in the legislative process. The first was published as part of William E. Henry (comp.), *Legislative and State Manual of Indiana for 1899 and 1900* (Indianapolis, 1899). Similar manuals containing biographical sketches of legislators and rosters of state officials were published for the sessions from 1903 through 1909, and culminated with Demarchus C. Brown (comp.), *State of Indiana Legislative Manual for 1913* (Indianapolis, 1913). The first detailed manual devoted only to bill drafting was Legislative Bureau of the Indiana Library and Historical Department (comp.), *Legislative Procedure in the General Assembly of the State of Indiana* (Indianapolis, 1928). Compiled by Charles Kettleborough, director of the Legislative Reference Bureau, it was not updated until 1954. In that year Bureau Director Herbert P. Kenney, Sr., and House Parliamentarian George W. Meyers published a revised version with the same title. Meyers supervised a second updating of the manual in 1968, and a more elaborate version appeared under the direction of the Legislative Services Agency as John A. Bremer (comp.), *Legislative Procedure in the General Assembly of the State of Indiana* (Indianapolis, 1972). In 1971 the first revision of the state code in 120 years occasioned Marcia J. Oddi and Margaret C. Attridge (eds.), *Draftsman's Manual to the Indiana Code of 1971* (Indianapolis, 1971). A more definitive, computer-generated code revision in 1976 led to publication of the last manual used in preparing this history: F. Richard Rembusch and Clarine Nardi Riddle, *Drafting Manual for the Indiana General Assembly* (Indianapolis, 1976).

For constitutional development, Francis Newton Thorpe (ed.), *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the States,*

Territories, and Colonies Now or Hitherto Forming the United States of America (7 vols., Washington, D.C., 1909), covers the question for the entire nation before Indiana's first Constitutional Convention in 1816. For the first convention, see *Journal of the Convention of the Indiana Territory* . . . (Louisville, Ky., 1816), reprinted with introduction and notes in *Indiana Magazine of History (IMH)*, 61 (1965), 77-155. For the second Constitutional Convention, see *Journal of the Convention of the People of the State of Indiana, to Amend the Constitution* (Indianapolis, 1851), and *Report of the Debates and Proceedings of the Convention for the Revision of the Constitution of the State of Indiana* (2 vols., Indianapolis, 1850).

A four-volume compilation of constitutional documents published by the Indiana Historical Bureau between 1916 and 1978 is indispensable for all eras in the history of the General Assembly. The compilation includes Charles Kettleborough, *Constitution Making in Indiana: A Source Book of Constitutional Documents with Historical Introduction and Critical Notes* (3 vols., Indianapolis, 1916, 1930), Volume I, *1780-1850*, Volume II, *1851-1916*, Volume III, *1916-1930*; and John A. Bremer, *Constitution Making in Indiana: A Source Book of Constitutional Documents with Historical Introduction and Critical Notes* (Indianapolis, 1978), Volume IV, *1930-1960*. Each volume analyzes actions by the General Assembly on constitutional matters during the years it covers, with detailed references to the *Journals* and *Laws*.

Robert Luce, *The Science of Legislation* (4 vols., Boston and New York, 1922-1935), was important in the preparation of this history because, although dated, it is definitive on the origins, development, and practice of representative government in the United States. The study consists of Volume I, *Legislative Procedure, Parliamentary Practices and the Course of Business in the Framing of Statutes* (1922); Volume II, *Legislative Assemblies: Their Framework, Make-up, Character, Characteristics, Habits, and Manners* (1924); Volume III, *Legislative Principles: The History and Theory of Lawmaking by Representative Government* (1930); and Volume IV, *Legislative Problems: Development, Status, and Trend of the Treatment and Exercise of Lawmaking Powers* (1935). Luce's volumes are, without exception, relevant to the theory and practice of the Indiana General Assembly from its beginning until at least the middle of the twentieth century.

Another important published work specifically devoted to the Indiana legislature is Leon H. Wallace, "Legislative Apportionment in Indiana: A Case History," *Indiana Law Journal*, 42 (1966), 6-76 plus appendices. This lengthy article is definitive on the question of apportionments from the time Indiana entered the Union in 1816 until the court-ordered reapportionments of 1965. The appendices include graphs, statistical tables, and maps for each apportionment of each house.

Documents issued by state agencies covering long spans of Indiana history that are useful for the study of the legislature include: Supreme Court, Indiana *Reports*, the official record of pleadings from 1816 to date; Indiana *Year Book*, annual reports of state agencies, including election reports, from 1917 to 1950;

Secretary of State, *Election Reports*, 1951 to date; and State Board of Accounts, *Roster of State and Local Officials of the State of Indiana* (Indianapolis, 1928 to date; title varies).

Unpublished Legislative Materials

The most important unpublished sources on the history of the Indiana legislature are the William H. English Legislator Collection in the Indiana Historical Society Library, Indianapolis, and the Centennial History of the Indiana General Assembly files. The latter were compiled by this project and by law will be deposited permanently with the Archives Division, Commission on Public Records, Indiana State Library, Indianapolis. These two collections contain biographical files for each of the more than 6,300 Indiana legislators between 1816 and 1986.

The English Legislator Collection originated with the work of English when he was president of the Indiana Historical Society beginning in 1886. He planned to publish a biographical directory of nineteenth century lawmakers and prepared individual files for each of the nearly 3,700 individuals who served in the General Assembly between 1816 and the time of his death in 1896. Most of the information was furnished either by legislators themselves, or by friends, relatives, and descendants of lawmakers. The English files are rich in biographical data, information on running for office, life in the capital city, anecdotes, newspaper clippings, and other primary source material. They provided the research base for most of the sketches in the nineteenth century biographical directory published by this project. They also were used extensively in preparing this history, with a conscious effort made to let individual legislators speak for themselves whenever possible.

The Centennial History files are to twentieth century legislators what the English Collection is to those of the nineteenth century. They consist of separate folders for each of the more than 2,700 individuals who served between 1901 and 1986. In most cases the information was furnished either by the legislators themselves, or by friends, relatives, and descendants of lawmakers. In every case, the information was corroborated and supplemented by published sources if possible. The files provided a wealth of documentation for this history and were used as extensively for the twentieth century as the English Collection was used for the nineteenth century.

The biographical data gathered by both English and the Centennial History project are incorporated into *A Biographical Directory of the Indiana General Assembly* (2 vols., Indianapolis, 1980, 1984), Volume 1, *1816-1899*, Volume 2, *1901-1984*. In addition to sketches of all individuals who served as lawmakers up to 1984, these volumes contain session lists and apportionment acts for each of the first 104 general assemblies. They are intended to complement this narrative and served as the base for the biographical and statistical data used throughout the study.

Typescripts

The legislature established a Legislative Reference Bureau in 1913 and under various names it has enjoyed nearly continuous existence to the present. Through

the years this agency compiled numerous studies covering long spans of legislative history. Most of these studies are preserved as bound typescripts in the Indiana Division, ISL. The more important ones used in this study, in the order in which they were prepared, include:

Indiana Bureau of Legislative Information (comps.), "Tie-Votes in the Senate of the State of Indiana," December, 1916. This compilation lists the propositions on which lieutenant governors voted between 1851 and 1915 and tables include page references to the *Journals*. Indiana Legislative Reference Bureau, "Appropriations and Expenditures of the Legislatures of Indiana from 1816 to 1917," Indianapolis, 1917, lists appropriations and expenditures by sessions. George Pence, "Index of Indiana Laws," 1921, although unpaginated and incomplete, gives useful information about private legislation and legislative actions regarding divorce during the nineteenth century. Indiana Legislative Reference Bureau, "Bank Laws of Indiana, 1852-1911," 1923, is useful as an index for legislative action in this area for the years it covers. Indiana Legislative Reference Bureau, "List of Impeachment Cases in Indiana General Assembly," January, 1924, gives particulars on impeachments between 1820 and 1835, with page references from the *Journals* for each. For the complex matters of taxation, revenue, and appropriations, Indiana Legislative Reference Bureau, "Population, Total Net Assessed Valuation, Taxes Charged for All Purposes and Per Capita Tax in Indiana For the Years 1849 to 1931 inclusive," 1931, is useful. Indiana Legislative Bureau, "The Passage and Taking Effect of Acts and Joint Resolutions in Indiana Under the Constitutions of 1816 and 1851," Indianapolis, July, 1935, gives a breakdown by session and by kind of laws passed from 1816 to 1935.

By far the most useful typescript was Indiana Legislative Bureau, "The Indiana General Assembly," Indianapolis, January, 1954 (with supplements from 1955 to 1967). It lists the dates and length of every regular and special session through 1967, lists speakers of the House, lieutenant governors, and presidents *pro tempore* of the Senate, women and blacks in the General Assembly through 1967, gives the number of bills and resolutions passed at each session since 1901, indicates legislative costs by table and graph for most of the twentieth century, indicates the pay of members at each session since 1816, lists contested seats from 1885 to 1951, indicates the political make-up by session since 1851, and provides statistics on seniority and longevity.

Although not prepared under legislative auspices, three typescripts in the Indiana Division, ISL, contain information about legislative action on issues of recurring importance. Harold C. Feightner, "Wet and Dry Legislation in Indiana (1790-1957)," 1957, covers liquor legislation and its effects from territorial days to the 1950s. Feightner covered the legislature for the Indianapolis *News* during the 1920s and became executive director of the Indiana Brewers Association in 1933. "Minutes of Indiana Woman's Suffrage Association" spell out efforts to expand women's rights during the second half of the nineteenth century. Louis E. Lambert, "The Congressional District System in Indiana," Institute of Politics, Department of Government, Indiana University, 1943, analyzes the impact of gerrymandering on congressional elections in the state from 1878 to 1942.

Typescripts in the Indiana Division, ISL, containing information on single events important in the history of the legislature include "Remarks of General William McKee Dunn, Indianapolis, October 5, 1885, at the Reunion of the Surviving Members of the Indiana Constitutional Convention of 1850." Dunn was the only spokesman for the Whig minority at the reunion. William S. Garber, "In the General Assembly of the State of Indiana, The Smith-Robertson Contest for the Lieutenant-Governorship, 1887," gives the perspective of a reporter for the Indianapolis *Journal* on the wild session of 1887. Hurley C. Goodall (comp.), "Martin Luther King Holiday Bill: A First Hand Account of Its Legislative Passage, 1986," is a detailed description of how the Indiana Black Legislative Caucus saw the King bill through to passage.

"The Memoirs of Milton Stapp," an unbound typescript in the Indiana Historical Society Library, is an autobiographical account by a legislator, lieutenant governor, administrator of several state agencies, and perennial candidate between the 1820s and the 1840s.

Manuscript Collections and Oral Histories

Manuscript collections containing useful material are in the Indiana Division, ISL, the Indiana Historical Society Library, and the Lilly Library of Indiana University. In addition, the Indiana Division, ISL, has compiled numerous oral histories by persons prominent in Indiana politics during the twentieth century.

Indiana Division, ISL

Researchers may use an extensive card index of the manuscripts organized according to subject as well as a chronological catalogue. Only the more important collections for this history are listed.

Daniel R. Bearss Papers. Includes letters written by Bearss while he was a member of the legislature during several sessions between 1841 and 1877.

David C. Branham Papers. Includes letters to his wife during several sessions between 1855 and 1877.

Austin H. Brown Papers. Materials on politics gathered after the Civil War by the one-time publisher of the *Indiana State Sentinel*.

George F. Chittenden Papers. A prominent physician during the Civil War, Chittenden corresponded extensively with legislators.

William G. and George W. Ewing Papers. 30,000 items, most of which deal with state politics during the pioneer period.

Allen Hamilton Papers. Correspondence on politics and banking sent or received by a prominent Fort Wayne banker.

George W. Julian Papers. Correspondence of a legislator in the 1840s, long-term Indiana congressman, and political activist until the 1890s.

Amos Lane Papers. Correspondence of the second speaker of the Indiana House who served at several sessions during the pioneer period.

Harry S. New Papers. Numerous items from a state senator in the 1890s, publisher of the Indianapolis *Journal* at the turn of the century, Republican state chairman, United States senator, and United States postmaster-general under President Calvin Coolidge.

E. B. Newcomb Papers. Includes letters written by Representative Ezra F. Pabody during sessions between 1827 and 1838.

Noah Noble Papers. Extensive correspondence regarding a pioneer period legislator and Indiana's fifth governor.

Daniel D. Pratt Papers. 20,000 items involving a member of the state House of Representatives and a United States senator.

Charles H. Test Papers. Letters to his wife and to and from political associates by a state representative in the 1820s.

Richard W. Thompson Collection. Correspondence while Thompson was a state legislator in the 1830s and Secretary of the Navy in the 1870s.

Joseph A. Wright Papers. Letters to and from a legislator of the 1830s, governor from 1849 to 1857, and United States senator during the Civil War.

Oral Histories

Oral history interviews include bound copies (edited and available to the public), and unedited copies not yet bound but nonetheless used in the preparation of this history. Unbound interviews are subject to editing and changes in pagination when bound.

Bound copies include Ira J. Anderson, four interviews conducted May 12, 13, June 22, 23, 1976. A state representative in the 1930s, and state senator, 1955 to 1961. Bound in 1981.

George N. Craig, two interviews, February 20, June 16, 1971. Bound in two volumes in 1976, Volume I covers Craig's life before his governorship, Volume II covers the years before, during, and after his governorship.

Jesse L. Dickinson, five interviews, December 30, 1976, October 5, December 14, 1977, June 29, October 31, 1978. A state representative and senator between 1943 and 1961 and the first black to serve in both houses. Bound in 1980.

Harold Feightner, two interviews, February 28, October 24, 1968, and a speech given by subject June 17, 1969, at Indiana State University, Terre Haute. Abounds with information on politics in the 1920s when Feightner was a newspaper reporter and on lobbying for the brewing industry from the 1930s through the 1950s. Bound in 1972.

Charles F. Fleming, three interviews, January 12, February 8, March 8, 1979. Covers Fleming's career as a labor organizer in Lake County, a state senator in the 1940s, secretary of state, 1948 to 1950, a high school social science teacher, and biographer of Henry F. Schricker. Bound in 1985.

George W. Meyers, seven interviews, June 16, 28, July 11, 13, 14, 17, 18, 1978. Meyers was a lobbyist and paid advisor to Republican legislators as early as 1925. In 1945 he was appointed the first attorney for the House, a position he held each session through 1957 and, except for the 1965 sessions, he served as House parliamentarian from 1961 to 1972. Bound in 1979.

Walter D. Myers, two interviews, December 14, 1970, January 20, 1971. Speaker of the Indiana House, 1931-1932, and prominent in Democratic party politics from the 1920s through the 1950s. Bound in 1972.

Roberta W. Nicholson, six interviews, March 11, 16, 18, 30, 1977, February 22, 1978, December 8, 1981. The only woman serving at the 1935 session, and active in social issues throughout her life. Bound in 1985.

John W. Van Ness, three interviews, November 30, December 30, 1976, January 17, 1977. President *pro tempore* of the state Senate from 1944 to 1957. Bound in 1977.

Unbound interviews include Arch N. Bobbitt, three interviews, August 30, September 11, 17, 1974. Especially useful for the 1941 session when Bobbitt was Republican state chairman and orchestrated the effort in the legislature to strip Governor Henry F. Schricker of his appointive powers.

Charles R. Brown, three interviews, October 29, November 23, December 19, 1976. Assistant secretary of the state Senate, 1945, secretary of the Senate, 1947 to 1951, and a long-time employee of the Legislative Reference Bureau.

George S. Diener, three interviews, May 9, June 7, 20, 1978. The speaker of the Indiana House, 1955 and 1957, gives a candid picture of the speakership in the twentieth century.

Harold R. Donnell, two interviews, August 30, September 19, 1977. A state representative in 1927 and 1929.

Von A. Eichhorn, four interviews, December 14, 31, 1976, February 17, 18, 1977. Served as state senator from Wells County continuously from 1939 to 1965, the longest tenure in the Senate during the twentieth century.

Robert A. Hoover, Sr., two interviews, June 12, 28, 1979. A legislator for seven sessions between 1935 and 1949.

Robert K. Kyle, five interviews, October 30, 1970, July 20, October 7, November 9, December 1, 1976. Covered the General Assembly as a reporter for various newspapers and wire services from the 1920s to the 1960s.

Charles M. Maddox, five interviews, October 8, December 2, 1976, January 17, May 9, December 13, 1977. A state senator from 1947 through 1965.

Frank T. Millis, two interviews, June 30, November 14, 1977. A state representative at three sessions between 1935 and 1941, state treasurer and auditor after legislative service, and prominent Indianapolis banker.

Charles T. Miser, one interview, April 28, 1978. State representative from 1941 through 1957.

Richard H. Moore, Sr., three interviews, August 8, 9, November 30, 1979. State senator from 1943 to 1953.

Robert P. O'Bannon, two interviews, December 7, 1977. State senator from 1951 to 1969.

Richard L. Roudebush, two interviews, June 16, 21, 1977. A long-term congressman from Indiana, his interviews abound with information on state politics.

Ida R. Wilson, one interview, February 19, 1980. She served two terms in the Indiana House, 1943 and 1947.

Indiana Historical Society Library

A card index organized by subject matter covers many but not all of the collections in the library. The collections most useful for the history of the legislature include:

Cauthorn-Stout Collection. Includes extensive correspondence of Henry S. Cauthorn while he was speaker of the House in 1879.

William H. English Papers. Political correspondence with a host of prominent Hoosiers from the 1850s through the 1880s, plus various historical documents such as party platforms and instructions to voters.

John Lyle King Diary. A manuscript diary giving a day-by-day account of the long session of 1851-1852 that implemented the second Constitution.

Henry S. Lane Papers. Five boxes of correspondence, principally for the years 1834 to 1865.

Samuel Merrill Papers. Correspondence with family and politicians of a prominent legislator, state official, and Indianapolis businessman during the pioneer period.

Robert H. Milroy Papers. Correspondence and other items involving the Milroy family, *ca.* 1840-1886.

D. C. Stephenson Papers. Seven boxes, including testimony by Stephenson and others before the Marion County Grand Jury Investigation of Alleged Political Corruption, 1925 to 1927. Invaluable for the influence of the Ku Klux Klan in Indiana.

Samuel C. Vance Papers. Includes correspondence about legislators during the years at Corydon, 1813 to 1824.

Lilly Library, Indiana University

A catalogue describes all of the collections, including detailed descriptions of some of the more significant items. Listed below are the collections consulted in the preparation of this history:

William Cumback Papers. Correspondence on political questions by the controversial lieutenant governor (1869-1871) and candidate for the United States Senate in 1869.

Alvin P. Hovey Papers. Letters from Hovey to his wife and other correspondence on politics from the middle of the nineteenth century until the 1880s.

Samuel Judah Papers. Includes political correspondence by a Democrat-turned-Whig who served several terms in the legislature between 1827 and 1841.

Henry S. Lane Papers. About half the collection covers the years 1861 to 1867 when Lane corresponded with legislators while a United States senator.

Charles H. Test Papers. Contains letters to his wife and other correspondence not included in the Test Papers in the Indiana State Library.

Newspapers

John W. Miller, *Indiana Newspaper Bibliography* (Indianapolis, 1982), is an exhaustive, annotated listing of newspapers published in Indiana from territorial days through 1980. The volume includes information on names of papers, owners and editors, dates of publication, and depositories where copies can be found. The Newspaper Section, Indiana Division, ISL, maintains extensive files of these papers and those files were used for the narrative history and biographical directories prepared by this project. Each use of newspapers is cited in the footnotes and it would be redundant to list all of them here. Newspapers published in the capital city were the most important because they covered the legislature more intensely than other newspapers, frequently publishing verbatim transcripts

of debates and proceedings. Brief histories of the leading newspapers in Indiana's three capital cities from the territorial days to the present (Vincennes, Corydon, and Indianapolis) are included in the text. In addition to Miller's *Bibliography*, sources that were helpful include the following unpublished materials:

"Extracts from Corydon Newspapers, 1820 [*sic*]-1838," bound typescript in Indiana Division, ISL; John W. Miller, "The Pioneer Newspapers of Indiana, 1804-1850" (Ph.D. dissertation, Purdue University, 1975); Indianapolis Newspaper Index (INI), Indiana Division, ISL, an alphabetical card file of references to select events and people in Indianapolis newspapers since 1898; and Indiana Biography Index (IBI), Indiana Division, ISL, an alphabetical card file which lists biographical references compiled by the staff of the Indiana Division.

Pioneer Period Legislatures

Papers, letters, diaries, memoirs, as well as autobiographical and biographical works by or about Indiana legislators or prominent politicians exist for every era in the history of the General Assembly, but they are most extensive for the nineteenth century. For the period up to 1850, the following were useful:

Books

The messages and papers of eight governors have been published by the Indiana Historical Bureau as volumes in the *Indiana Historical Collections*. Each is indispensable for the study of the legislatures of the pioneer era. Logan Esarey edited and compiled the first three volumes of gubernatorial papers as *Messages and Letters of William Henry Harrison* (2 vols., Indianapolis, 1922), and *Messages and Papers of Jonathan Jennings, Ratliff Boon, William Hendricks* (Indianapolis, 1924). Dorothy Riker and Gayle Thornbrough jointly edited and compiled *Messages and Papers Relating to the Administration of James Brown Ray, Governor of Indiana, 1825-1831* (Indianapolis, 1954), and *Messages and Papers Relating to the Administration of Noah Noble, Governor of Indiana, 1831-1837* (Indianapolis, 1958). The last two volumes of gubernatorial papers are Dorothy Riker (ed.), *Messages and Papers Relating to the Administration of David Wallace, Governor of Indiana, 1837-1840* (Indianapolis, 1963), and Gayle Thornbrough (ed.), *Messages and Papers Relating to the Administration of Samuel Bigger, Governor of Indiana, 1840-1843* (Indianapolis, 1964).

Nellie Armstrong Robertson and Dorothy Riker (eds.), *The John Tipton Papers* (3 vols., Indianapolis, 1942), contain a wealth of information on legislative matters and Indiana politics from the perspective of a prominent political and social leader, state legislator, Indian agent, and United States senator. Gayle Thornbrough, Dorothy Riker, and Paula Corpuz (eds.), *The Diary of Calvin Fletcher* (9 vols., Indianapolis, 1972-1983), covering the years 1817 to 1866, includes information on early Indianapolis and details about Fletcher's experience as a state senator at the 1832-1833 session. Karl J. R. Arndt (ed.), *A Documentary History of the Indiana Decade of the Harmony Society, 1814-1824* (2 vols., Indianapolis, 1975, 1978), is a monumental collection that includes hundreds of items regarding the relationship between George Rapp's religious commune and the state of Indiana, including correspondence with and petitions to legislators from Posey County.

Book-length biographies of men prominent during the pioneer era include I. George Blake, *The Holmans of Veraestau* (Oxford, Ohio, 1943), telling the story of Jesse L. Holman and his son William S. Holman, dominant figures in state politics from 1816 to 1897. Thomas M. Hopkins, *Reminiscences of Col. John Ketcham of Monroe County, Indiana* (Bloomington, Ind., 1866), recounts the life of a state representative during the late 1820s. Richard W. Leopold, *Robert Dale Owen: A Biography* (Cambridge, Mass., 1940), covers the career of the man who was first to champion women's rights and free public schools in the Indiana legislature. Elmo R. Richardson and Alan W. Farley, *John Palmer Usher: Lincoln's Secretary of the Interior* (Lawrence, Kan., 1960), briefly considers Usher's one term as a state representative at the 1850-1851 session. Patrick W. Riddleberger, *George Washington Julian: Radical Republican* (Indianapolis, 1966), covers Julian's career as an Indiana legislator in the 1840s, his years as a Civil War era congressman, and his involvement in state politics until the 1890s. Charles Roll, *Colonel Dick Thompson: The Persistent Whig* (Indianapolis, 1948), includes an account of Thompson's career as a legislator in the 1830s when he championed internal improvements. Charles N. Thompson, *Sons of the Wilderness: John and William Conner* (Indianapolis, 1937), studies the brothers who played leading roles in the formation of Fayette County, in the selection of Indianapolis as the site for the state capital, and in the formation of Hamilton County.

Dissertations and Journal Articles

The most complete study of Indiana's first congressman, second governor, and third United States senator is Frederick D. Hill, "William Hendricks: Indiana Politician and Western Advocate, 1812-1850" (Ph.D. dissertation, Indiana University, 1972). The work is useful for Hendricks' relations with the legislature while he was governor (1822-1825), and the legislature's role in electing him as a United States senator in 1825 and 1831.

The *Indiana Magazine of History (IMH)*, published quarterly since 1905, contains numerous articles dealing with legislators and/or legislative issues. Many of the more important pieces were reprinted in Lorna Lutes Sylvester (comp.), *"No Cheap Padding": Seventy-five Years of the Indiana Magazine of History* (Indianapolis, 1980), to commemorate the first seventy-five years of the *IMH*. Articles important for this study are indicated according to the chronological division of the book.

Articles dealing with pioneer legislators include John W. Ray, "A Recollection of Dennis Pennington," *IMH*, 3 (1907), 26-28. Pennington served almost continuously in the General Assembly from 1816 to 1846. Joseph Herman Schauinger, "Jeremiah C. Sullivan, Hoosier Jurist," *IMH*, 37 (1941), 217-36, recounts Sullivan's role in naming the city of Indianapolis at the 1820-1821 session. Schauinger also edited "The Letters of Godlove S. Orth, Hoosier Whig," *IMH*, 39 (1943), 365-400, and "The Letters of Godlove S. Orth, Hoosier American," *IMH*, 40 (1944), 51-66. Orth was a state senator during the 1840s, a founder of the Know Nothing party in the 1850s, and a congressman from 1863 to 1873 and 1879 to 1892. These letters deal with his career before the Civil War. Wendell Holmes Stephenson, "Amos Lane, Advocate of Western Democracy," *IMH*, 26 (1930), 177-217, includes details about Lane's term as speaker of the House at

the 1817-1818 session and his subsequent political career. W. W. Thornton, "Isaac Blackford, The Indiana Blackstone," *Indiana History Bulletin*, 8 (1931), 316-27, is the only published study of the first speaker of the Indiana House and eminent pioneer jurist. George R. Wilson, "George H. Proffit, His Day and Generation," *IMH*, 18 (1922), 1-46, covers Proffit's five terms in the Indiana House in the 1830s and two terms in Congress, 1839-1843. George R. Wilson, "General Washington Johnston," *IMH*, 20 (1924), 123-53, is the only published account of a colorful and perennial early legislator whose service included one term (1822-1823) as speaker.

Miscellaneous Sources

Several articles by Donald F. Carmony were useful for the pioneer legislatures. They include "Genesis and Early History of the Indianapolis Fund, 1816-1826," *IMH*, 38 (1942), 17-30; "Fiscal Objections to Statehood in Indiana," *IMH*, 42 (1946), 311-21; "Historical Background of the Restrictions Against State Debt in the Indiana Constitution of 1851," *IMH*, 47 (1951), 129-42; and "The Pioneer Press in Indiana," *Indiana History Bulletin*, 31 (1954), 187-232.

George Pence and Nellie C. Armstrong, *Indiana Boundaries: Territory, State, and County* (Indianapolis, 1933), 28-102, covers legislative actions regarding the formation of the ninety-two counties in the state. Ernest V. Shockley, "County Seats and County Seat Wars in Indiana," *IMH*, 10 (1914), 1-46, includes information on legislative maneuvering to establish and/or change county seats.

Logan Esarey, *State Banking in Indiana, 1814-1873* (Bloomington, Ind., 1912), covers the legislature's role in establishing the first and second state banks. Hugh McCulloch, *Men and Measures of Half a Century* (New York, 1888), includes a first-hand account by the director of the Fort Wayne branch of the Second State Bank. William F. Harding, "The State Bank of Indiana," *Journal of Political Economy*, 4 (1895), 1-36, is a scholarly and favorable study of the Second State Bank that operated from 1833 to 1855.

Logan Esarey, *Internal Improvements in Early Indiana* (Indianapolis, 1912), includes details on the "Mammoth" act of 1836 and its consequences. Paul Fatout, *Indiana Canals* (West Lafayette, Ind., 1972), is a scholarly and exceptionally readable account of the canal mania in the state. Francis Hovey Stoddard, *The Life and Letters of Charles Butler* (New York, 1903), covers the lobbyist who attempted to save the investment of those holding Indiana internal improvement bonds. Ralph D. Gray, "The Canal Era in Indiana," *Transportation and the Early Nation: Papers Presented at an Indiana American Revolution Bicentennial Symposium* (Indianapolis, 1982), 113-34, is the most recent account regarding the Wabash and Erie Canal.

For elections during the pioneer era, Dorothy Riker and Gayle Thornbrough (comps.), *Indiana Election Returns, 1816-1851* (Indianapolis, 1960), is the standard source. Dorothy Riker, "Pioneer Elections in Indiana," *Yearbook of the Society of Indiana Pioneers* (1946), 5-13, analyzes the election process to 1850.

Charles W. Moores, *Caleb Mills and the Indiana School System* (Indianapolis, 1905), covers the lobbying effort of the man most responsible for legislative action to establish free public schools. For the relationship between the legislature and the Harmony Society, Donald E. Pitzer and Josephine M.

Elliott, "New Harmony's First Utopians, 1814-1824," *IMH*, 75 (1979), 225-300, and Donald F. Carmony and Josephine M. Elliott, "New Harmony, Indiana: Robert Owen's Seedbed for Utopia," *IMH*, 76 (1980), 161-261, are both useful.

Middle Period Legislatures

Papers, letters, diaries, memoirs, autobiographies, and biographies by or about Indiana legislators or prominent politicians for the middle period, 1850 to 1890, include:

Dissertations and Books

Three unpublished dissertations were especially helpful. Philip M. Crane, "Governor Jo Wright: Hoosier Conservative" (Ph.D. dissertation, Indiana University, 1963), studies the last governor of the pioneer period and the first governor under the second Constitution. It includes information on Wright's dealings with the General Assembly. Wayne J. Van Der Weele, "Jesse D. Bright: Master Politician from the Old Northwest" (Ph.D. dissertation, Indiana University, 1958), covers the career of Wright's leading rival for leadership of the Democratic party in the state during the 1850s. Ronald D. Snell, "Indiana's Black Representatives: The Rhetoric of the Black Republican Legislators from 1880 to 1896" (Ph.D. dissertation, Indiana University, 1972), is a pioneer study of the first four blacks to serve in the Indiana General Assembly.

Ray Ginger, *The Bending Cross: A Biography of Eugene Victor Debs* (New Brunswick, N.J., 1949), includes information on Debs' service as a state representative at the 1885 session. Matilda Gresham, *Life of Walter Quintin Gresham, 1832-1895* (2 vols., Chicago, 1919), covers Gresham's contribution as a state representative at the regular and special sessions of 1861. Two books by William Dudley Foulke, a state senator in the 1880s, contain material on the General Assembly: *Life of Oliver P. Morton* (2 vols., Indianapolis, 1899), covers the governor's battle with the Civil War legislatures, and *A Hoosier Autobiography* (New York, 1922), devotes several pages to Foulke's term as a state senator. Alan F. January and Justin E. Walsh, *A Century of Achievement: Black Hoosiers in the Indiana General Assembly, 1881-1986* (Indianapolis, 1986), contains biographical data on each of the forty blacks who have served in the legislature as well as historical background on race relations in the state. William S. Holman, *The Constitutional Convention of Indiana of 1850-'51. The Reforms It Accomplished* (Washington, D.C., 1886), and John Lyle King, *Reminiscences of the Indiana Legislature of 1851-52* (n.p., n.d.), pamphlet in Indiana Division, ISL, were useful regarding the second Constitutional Convention and the long session that implemented the 1851 Constitution. Robert S. Robertson, *The Indiana Rebellion of 1887. The Case of the Lieutenant-Governor* (n.p., [1887]), pamphlet in Indiana Division, ISL, gives Robertson's side of the conflict about who would preside over the state Senate in 1887. The autobiography of David Turpie, *Sketches of My Own Times* (Indianapolis, 1903), covers the political career of a man who served three terms in the Indiana House, including one in 1875 as speaker. Lew Wallace, *Lew Wallace: An Autobiography* (2 vols., New York, 1906), includes information on the author's term as a state senator in 1857 and 1859.

Biographical Articles

Two books of essays about Indiana politicians published by the Indiana Historical Bureau contain information that was used in this study. F. Gerald Handfield, Jr., "William H. English and the Election of 1880," in Ralph D. Gray (ed.), *Gentlemen From Indiana: National Party Candidates, 1836-1940* (Indianapolis, 1977), 85-116, covers the career of the man who was speaker of the House at the long session of 1851-1852 and Democratic state chairman in 1880; Ronald H. Ridgley, "Henry Smith Lane: Republican Progenitor," in *Their Infinite Variety: Essays on Indiana Politicians* (Indianapolis, 1981), 47-75, Lorna Lutes Sylvester, "Oliver P. Morton and the Indiana Legislature of 1863," *ibid.*, 121-54, and Wayne J. Van Der Weele, "'With My Face Toward My Accusers': The Expulsion of Jesse David Bright From the United States Senate," *ibid.*, 77-119, all contain information on the legislatures of the 1850s and 1860s.

Journal articles dealing with legislators of the middle period include Henry Clay Duncan, "James Hughes," *IMH*, 5 (1909), 85-98; Joseph E. Holliday, "Daniel D. Pratt: Lawyer and Legislator," *IMH*, 57 (1961), 99-126; and John D. Macoll, "Ezra A. Olleman: The Forgotten Man of Greenbackism, 1873-1876," *IMH*, 65 (1969), 173-96.

Journal Articles

Several articles deal with political parties and elections during the middle period. Carl Fremont Brand, "The History of the Know Nothing Party in Indiana," *IMH*, 18 (1922), 47-81, 177-206, 266-306, identifies several legislators who served between 1855 and 1859 while members of the secret, nativist organization. Two articles by Roger H. Van Bolt trace the demise of the Whig party and emergence of the Republican party between 1852 and 1856: "Indiana in Political Transition, 1851-1853," *IMH*, 49 (1953), 131-60, and "The Rise of the Republican Party in Indiana, 1855-56," *IMH*, 51 (1955), 185-220. Charles Zimmerman, "The Origin and Rise of the Republican Party in Indiana from 1854 to 1860," *IMH*, 13 (1917), 211-69, 349-412, carries the story of Republicanism up to its success in the 1860 state elections. Two articles by William G. Carleton cover third parties and the Democratic party in the quarter century following the Civil War: "The Money Question in Indiana Politics, 1865-1900," *IMH*, 42 (1946), 107-50, and "Why Was the Democratic Party in Indiana a Radical Party, 1865-1890?," *ibid.*, 207-28.

Articles analyzing particular state elections include William O. Lynch (ed.), "Indiana in the Douglas-Buchanan Contest of 1856," *IMH*, 30 (1934), 119-32; Albert V. House, "The Democratic State Central Committee of Indiana in 1880: A Case Study in Party Tactics and Finance," *IMH*, 58 (1962), 179-210; Paul Tincher Smith, "Indiana's Last October Campaign," *IMH*, 19 (1923), 332-45; and R. Carlyle Buley, "The Campaign of 1888 in Indiana," *IMH*, 10 (1914), 162-85.

Articles that cover how the legislature handled major issues include Emma Lou Thornbrough, "Indiana and Fugitive Slave Legislation," *IMH*, 50 (1954), 201-28; William Christian Gerichs, "The Ratification of the Fifteenth Amendment in Indiana," *IMH*, 9 (1913), 131-66; Pat Creech Scholten, "A Public 'Jollification': The 1859 Women's Rights Petition before the Indiana Legislature,"

IMH, 72 (1976), 347-59; Charles E. Canup, "Temperance Movements and Legislation in Indiana," *IMH*, 16 (1920), 3-37, 112-51; and Robert La Follette, "The Adoption of the Australian Ballot in Indiana," *IMH*, 24 (1928), 105-20.

Articles that deal with legislative action on less important issues include Frances H. Ellis, "Historical Account of German Instruction in the Public Schools of Indianapolis, 1869-1919," *IMH*, 50 (1954), 119-38; Val Nolan, Jr., "Indiana: Birthplace of Migratory Divorce," *Indiana Law Journal*, 26 (1951), 515-27; and Stephen F. Strausberg, "Indiana and the Swamp Lands Act: A Study in State Administration," *IMH*, 73 (1977), 191-203.

Early Modern Legislatures

Memoirs, autobiographies, biographies, and articles by or about Indiana legislators or prominent politicians are significantly fewer for the twentieth century than for the nineteenth. For the early modern period, 1890 to 1930, this study utilized:

Dissertations and Books

There is no published biography of Will H. Hays, Republican state chairman from 1914 to 1918, but two dissertations cover his Indiana years: Walden S. Freeman, "Will H. Hays and the League of Nations" (Ph.D. dissertation, Indiana University, 1967), and Garland Chamberlain Routt, "Will Hays: A Study in Political Leadership and Management" (M.A. thesis, University of Chicago, 1937). John A. Davis, "The Ku Klux Klan in Indiana, 1920-1930: An Historical Study" (Ph.D. dissertation, Northwestern University, 1966), is the best dissertation covering this topic because it gives the most complete information on the division of the Indiana Klan into two competing factions.

Harry T. Ice, *History of a Hoosier Law Firm: Ice Miller Donadio & Ryan and its Predecessors, 1910-1980* (n.p., 1980), covers the legislative career of Frederick Eugene Matson, president *pro tempore* of the Senate at the 1903 session and one of the founders of the firm. Olis G. Jamison, *Echoes from the Trail: An Autobiography* (Terre Haute, Ind., 1973), covers Jamison's service at the 1927 session and his subsequent work as a lobbyist for Indiana State University.

Journal Articles and Miscellaneous Sources

Thomas R. Marshall (1909-1913) is the only governor of the era to write his memoirs and also be the subject of a full-length biography. Both *Recollections of Thomas R. Marshall, Vice-President and Hoosier Philosopher: A Hoosier Salad* (Indianapolis, 1925), and Charles M. Thomas, *Thomas Riley Marshall: Hoosier Statesman* (Oxford, Ohio, 1939), cover Marshall's relations with the General Assembly. Richard M. Morgan (comp.), *The Writings of Raymond Charles Morgan, 1868-1953* (Florence, Ala., 1982), has details on how the speaker conducted himself at the 1923 session. John L. Niblack, *The Life and Times of a Hoosier Judge* (n.p., 1973), is especially good for the 1920s when Niblack covered the General Assembly for the Indianapolis *Times*. Niblack also recounts his experience as a state senator at the 1929 and 1931 sessions. Thurman B. Rice, *The Hoosier Health Officer: A Biography of Dr. John N. Hurty and the History of the Indiana State Board of Health to 1925 . . .* (Indianapolis, 1946),

covers the history of the board from its inception in 1881 while concentrating on the work of Commissioner Hurty as a lobbyist for twenty-five years and as a legislator at the 1923 session.

Two articles deal with legislators of the era. Jan Shipps, "J. Frank Hanly: Enigmatic Reformer," in Ralph D. Gray (ed.), *Gentlemen from Indiana: National Party Candidates, 1836-1940* (Indianapolis, 1977), 237-68, covers a state senator of the 1890s while concentrating on the 1908 special session which was called by Governor Hanly. James L. Woodress, "Booth Tarkington's Political Career," *American Literature*, 26 (1954), 209-22, deals exclusively with Tarkington's service at the 1903 session.

Articles about third party movements and elections during the era include: Ernest D. Stewart, "The Populist Party in Indiana," *IMH*, 14 (1918), 332-67, and 15 (1919), 53-74; Carl Painter, "The Progressive Party in Indiana," *IMH*, 16 (1920), 173-283; John Frederick Connell, "Indiana Primary Laws," *IMH*, 18 (1922), 224-38; and William W. Giffin, "The Political Realignment of Black Voters in Indianapolis, 1924," *IMH*, 79 (1983), 133-66.

Three monographs were written by two of the authors of the 1911 constitution that was passed by act of the legislature and then declared unconstitutional by the state Supreme Court. Jacob Piatt Dunn, *The Proposed Constitution of Indiana* (Indianapolis, 1911), is a pamphlet giving a line by line comparison of the 1851 Constitution and the 1911 proposal; the following year Dunn added documentation and published "The Proposed Legislative Constitution of Indiana" in *Proceedings*, 1912, *American Political Science Review*, 6 (1912), Supplement, 43-52. James Albert Woodburn, *Why Indiana Needs a New Constitution* (Indianapolis, 1913), covers the matter from the viewpoint of a history professor at Indiana University.

Recent Modern Legislatures

For the years since 1930, the following memoirs, autobiographies, biographies, and articles by or about Indiana legislators or prominent politicians were useful:

Dissertations and Books

Robert R. Neff, "The Early Career and Governorship of Paul V. McNutt" (Ph.D. dissertation, Indiana University, 1964), covers executive-legislative relations from 1933 to 1937. Dale R. Sorenson, "The Anticommunist Consensus in Indiana, 1945-1958" (Ph.D. dissertation, Indiana University, 1980), considers anticommunism in the legislature during the post-World War II era. It can be supplemented by "Counter-Subversive Study Commission of Indiana to Governor Harold W. Handley," December 7, 1958, a pamphlet in Un-American Propaganda Activities clipping file, Indiana Division, ISL.

Dean Albertson, *Roosevelt's Farmer: Claude R. Wickard in the New Deal* (New York and London, 1961), devotes a chapter to Wickard's work as a senator at the 1933 session. I. George Blake, *Paul V. McNutt: Portrait of a Hoosier Statesman* (Indianapolis, 1966), is the only published biography of the governor who dominated the 1930s. Owen L. Crecelius, *Reminiscences of a Small-Town*

Hoosier (n.p., n.d.), gives the perspective of a conservative Republican who served in the House from 1959 to 1963. Charles Francis Fleming, *The White Hat: Henry Frederick Schricker, A Political Biography* (n.p., 1966), recounts the struggle between the governor and the 1941 legislature for control of political patronage. Fleming was a state senator in the 1940s and secretary of state during Schricker's second term. Harriet B. Van Ness, *President Pro Tem Emeritus, Indiana, U.S.A.* (Chesterton, Ind., 1965), is divided into eighteen unpaged chapters that tell the story of John Van Ness, Senate president *pro tempore* from 1944 through 1957.

Irving Leibowitz, *My Indiana* (New York, 1964), is the reminiscence of a reporter who covered the legislature from about 1950 to 1965. Walter Myers, *The "Guv," a Tale of Midwest Law and Politics*, is an autobiography in fictional form by the Democratic speaker of the House at the 1931 and 1932 sessions who was also a bitter rival of Paul V. McNutt. Russell Pulliam, *Publisher: Gene Pulliam, Last of the Newspaper Titans* (Ottawa, Ill., 1984), is the biography of a man who was frequently at odds with the legislature as he used his newspapers to promote or denounce politicians in both parties from the 1940s to the 1970s.

William Matthew Schreiber, *Indianapolis-Marion County Consolidation: How Did It All Happen?* ([Indianapolis], 1974), tells the story of how the 1969 legislature passed Unigov from the perspective of the Marion County Democratic chairman. The best scholarly treatment of the Indianapolis-Marion County merger is York Willbern, "Unigov: Local Government Reorganization in Indianapolis," in Kent Mathewson (ed.), *The Regionalist Papers* (Detroit, Mich., 1974), 207-29. Ralph W. Van Natta, *The Indiana Bureau of Motor Vehicles: History and Organization* (Indianapolis, 1977), pamphlet in Motor Vehicles clipping file, Indiana Division, ISL, summarizes motor vehicle laws from 1905 to 1977.

Richard B. Wathen, *Wathen's Law: The Hang-ups of an Indiana Politician* (Chicago, 1981), is the only memoir in book form by a legislator who served throughout the 1970s and 1980s. Matthew E. Welsh, *View from the State House: Recollections and Reflections, 1961-1965* (Indianapolis, 1981), is the most complete account ever written by an Indiana governor about his administration. Herman B Wells, *Being Lucky: Reminiscences and Reflections* (Bloomington, Ind., 1980), contains details on Wells' work with several state commissions in the 1930s and his relations with the General Assembly during the quarter century that he served as president of Indiana University.

Journal Articles

Articles that were used for the years since 1930 include James E. Farmer, "The New Indiana Legislature," *Res Gestae*, (September, 1974), 7-9; Oliver P. Field, "Unconstitutional Legislation in Indiana," *Indiana Law Journal*, 17 (1941), 101-27; and William B. Pickett, "The Capehart Cornfield Conference and the Election of 1938: Homer E. Capehart's Entry into Politics," *IMH*, 73 (1977), 251-75. John S. Waggaman, "An Analysis of Indiana's Congressional Districting Problem," *Indiana Business Review*, 43 (1968), 14-24, summarizes federal court actions regarding congressional districting in Indiana in the 1960s.

General Secondary Sources

In addition to the four volumes in the sesquicentennial *History of Indiana*, several works on aspects of Indiana history proved useful. The best standard history is John D. Barnhart and Donald F. Carmony, *Indiana: From Frontier to Industrial Commonwealth* (4 vols., New York, 1954). For the territorial period, Beverley W. Bond, Jr., *The Civilization of the Old Northwest: A Study of Political, Social, and Economic Development, 1788-1812* (New York, 1934), puts Indiana's development until the War of 1812 in regional context. R. Carlyle Buley, *The Old Northwest: Pioneer Period, 1815-1840* (2 vols., Indianapolis, 1950), does the same for the first quarter century of statehood. Jacob Piatt Dunn, *Indiana and Indianans* (5 vols., Chicago and New York, 1919), is a popular older work by a writer familiar with the role of the legislature in the state's development. Logan Esarey, *A History of Indiana From Its Exploration to 1850* (2 vols., Fort Wayne, Ind., 1924), was the first general history of the state written by a trained historian. William Wesley Woollen, *Biographical and Historical Sketches of Early Indiana* (Indianapolis, 1883), is informative about politics and politicians during the first half of the nineteenth century. An important recent work by a political scientist who makes good use of computer technology and quantification is Philip R. VanderMeer, *The Hoosier Politician: Officeholding and Political Culture in Indiana, 1896-1920* (Urbana and Chicago, Ill., 1985). Though limited to the quarter century of the Progressive Era, VanderMeer's conclusions regarding the impact of economic status, ethnic background, and religion on votes in the Indiana legislature are generally valid for lawmakers of all eras.

There is at least one history for almost all of the state's ninety-two counties. Most were published between the end of the Civil War and the 1930s. All were used in the preparation of this history and its companion biographical directories. There are complete collections of these histories in the Indiana Division, ISL, and the Indiana Historical Society Library.

Despite the key role that Indianapolis has played as the political and industrial capital of the state, no general history of the city has been attempted since 1910. Earlier histories containing useful information on life in the capital city and the impact of the legislature on its development include Ignatius Brown, *History of Indianapolis From 1818 to 1868*, in *Logan's Indianapolis Directory for . . . 1868-69* (Indianapolis, 1868); Jacob Piatt Dunn, *Greater Indianapolis . . .* (2 vols., Chicago, 1910); W. R. Holloway, *Indianapolis: A Historical and Statistical Sketch of the Railroad City* (Indianapolis, 1870); John H. B. Nowland, *Early Reminiscences of Indianapolis* (Indianapolis, 1870); and B[erry] R. Sulgrove, *History of Indianapolis and Marion County, Indiana* (Philadelphia, 1884).

Except for Russel M. Seeds, *History of the Republican Party of Indiana* (Indianapolis, 1899), and John B. Stoll, *History of the Indiana Democracy, 1816-1916* (Indianapolis, 1917), no book-length studies of political parties in the state exist. Both of these books are dated and written from an exclusively partisan perspective. They are nonetheless useful for the nineteenth century because they cover state platforms and leaders of the two major parties.

Specialized studies on Indiana or histories of particular state institutions that were used include William A. Rawles, *Centralizing Tendencies in the Administration of Indiana* (New York, 1903), indispensable for taxation, revenue, and state expenditures during the nineteenth century. Donald W. Kiefer, *Indiana Public Finance, Past and Present: Report of the Commission on State Tax and Financing Policy* (Indianapolis, 1974), is likewise indispensable for the same topics during the twentieth century. Leander J. Monks (ed.), *Courts and Lawyers of Indiana* (3 vols., Indianapolis, 1916), covers its subject for the first century of statehood.

Richard G. Boone, *A History of Education in Indiana* (New York, 1892; reprinted, Indianapolis, 1941), tells the story of legislative support for public education in the nineteenth century. Thomas D. Clark, *Indiana University, Midwestern Pioneer* (4 vols., Bloomington, 1970-1977), includes information about the first state university's relationship with lawmakers from its founding until the 1970s. Glenn White, *The Ball State Story: From Normal Institute to University* (Muncie, Ind., 1967), tells how the legislature was involved in the evolution of an obscure school for training teachers into a major state university.

Three books gave details on the role of Freemasonry in state government and politics. Dwight L. Smith, *Goodly Heritage: One Hundred Fifty Years of Craft Freemasonry in Indiana* ([Franklin, Ind.], 1968), is the most complete and most recent account. Daniel McDonald, *A History of Freemasonry in Indiana from 1806 to 1898* (Indianapolis, 1898), is comprehensive for the nineteenth century, while Will E. English, *A History of Early Indianapolis Masonry and of Center Lodge* (Indianapolis, 1895), recounts the role of the fraternal group in the early development of Indianapolis.

Emma Lou Thornbrough, *The Negro in Indiana Before 1900: A Study of a Minority* (Indianapolis, 1957), covers race relations during the nineteenth century. Richard Wires, *The Divorce Issue and Reform in Nineteenth-Century Indiana* (Muncie, Ind., 1967), presents details on a troublesome issue facing the General Assembly during the last century. Powell A. Moore, *The Calumet Region: Indiana's Last Frontier* (Indianapolis, 1959), recounts the development of Lake County into the most concentrated industrial and urban area in the state. Lana Ruegamer, *A History of the Indiana Historical Society, 1830-1980* (Indianapolis, 1980), is rich in detail about the frequently ambivalent attitude of state lawmakers toward preserving the state's historical heritage.

Useful works that place developments in Indiana in a national context include Lionel E. Fredman, *The Australian Ballot: The Story of an American Reform* (East Lansing, Mich., 1968). In 1889 the Indiana legislature became one of the first to adopt this important reform. Cornelius J. Moynihan, *Introduction to the Law of Real Property: An Historical Background of the Common Law of Real Property and Its Modern Application* (St. Paul, Minn., 1962), treats the subordinate status of women in the nineteenth century under the common law. Through steps initiated by the legislature, Indiana became one of the first states to take remedial action in this important area. David J. Rothman, *The Discovery of the Asylum: Social Order and Disorder in the New Republic* (Boston, 1971), shows how Indiana lagged in the development of benevolent institutions.

Books that place important problems faced by legislatures of the pioneer era in a national context include Paul Wallace Gates, *The Farmer's Age: Agriculture, 1815-1860* (New York, 1960), and George Rogers Taylor, *The Transportation Revolution, 1815-1860* (New York, 1951). Bray Hammond, *Banks and Politics in America: From the Revolution to the Civil War* (Princeton, N.J., 1957), is definitive on the interplay nationally between money, banking, and politics. Glyndon G. Van Deusen, *The Jacksonian Era, 1828-1848* (New York, 1959), is useful for its account of the effects of Andrew Jackson's destruction of the Second Bank of the United States in 1833. The student of money and banking in Indiana can supplement the works of Hammond and Van Deusen with William Gerald Shade, *Banks or No Banks: The Money Issue in Western Politics, 1832-1865* (Detroit, 1972).

Histories of political parties during the nineteenth century that place developments in Indiana in perspective include Richard P. McCormick, *The Second American Party System: Party Formation in the Jacksonian Era* (Chapel Hill, N.C., 1966). McCormick uses Indiana as a case study to show that parties developed nationally around presidential candidates and had little effect on local and state issues until the late 1830s. Studies of the Democratic party that indicate Indiana mirrored regional and national developments include Roy Franklin Nichols, *The Disruption of American Democracy* (New York, 1948), definitive for the 1850s; Joel H. Silbey, *A Respectable Minority: The Democratic Party in the Civil War Era, 1860-1868* (New York, 1977), a study that shows the Indiana Democracy was quite in step with its counterparts elsewhere; and Horace Samuel Merrill, *Bourbon Democracy of the Middle West, 1865-1896* (Baton Rouge, La., 1953), an account showing how developments in Indiana helped Democrats revive as a vital force in national politics. Arthur M. Schlesinger, Jr. (ed.), *History of U.S. Political Parties* (4 vols., New York, 1973), is the most comprehensive account of the subject yet attempted. The essays by Michael F. Holt, "The Antimasonic and Know Nothing Parties," (Vol. 1, pp. 575-620), by Hans L. Trefousse, "The Republican Party, 1854-1864," (Vol. 2, pp. 1141-72), and by Paul Kleppner, "The Greenback and Prohibition Parties," (Vol. 2, pp. 1549-81), show the importance of these third party movements in Indiana politics.

Books on race relations that place Indiana in historical context include Leon F. Litwack, *North of Slavery: The Negro in the Free States, 1790-1860* (Chicago, 1961); Eugene H. Berwanger, *The Frontier Against Slavery: Western Anti-Negro Prejudice and the Slavery Extension Controversy* (Urbana, Ill., 1967); Peter J. Staudenraus, *The African Colonization Movement, 1816-1865* (New York, 1961); and V. Jacque Voegeli, *Free But Not Equal: The Midwest and the Negro During the Civil War* (Chicago, 1967).

William B. Hesseltine, *Lincoln and the War Governors* (New York, 1948), is of interest because Hesseltine asserts that Indiana Governor Oliver P. Morton went farther than any other free state governor in usurping constitutional powers against a recalcitrant legislature. Kenneth M. Stampp, *Indiana Politics During the Civil War* (Indianapolis, 1949), focuses on the conflict between the legislature and the governor and concludes that both were about equally responsible for the collapse of constitutional government in the state. Frank L. Klement, *The*

Copperheads in the Middle West (Chicago, 1960), suggests that Indiana Democrats were more interested in preserving constitutional liberty than in aiding the Confederacy. Klement's *Dark Lanterns: Secret Political Societies, Conspiracies, and Treason Trials in the Civil War* (Baton Rouge, La., 1984), concludes that the Indianapolis treason trials were concocted by Governor Morton mainly to help his reelection in 1864.

The story of prejudice against immigrants is covered by John Higham, *Strangers in the Land: Patterns of American Nativism, 1860-1925* (New Brunswick, N.J., 1955). Nativists held the upper hand in Indiana politics in the 1850s, the 1890s, and the 1920s. The Ku Klux Klan dominated the state for a while during the latter decade. David M. Chalmers, *Hooded Americanism: The First Century of the Ku Klux Klan, 1865-1965* (Garden City, N.Y., 1965), and Kenneth T. Jackson, *The Ku Klux Klan in the City, 1915-1930* (New York, 1967), place Indiana developments in a national context.

Petr. Beckmann, *A History of π (pi)* (Boulder, Colo., 1970), covers the attempt by the Indiana legislature of 1897 to pass a bill that would have changed the mathematical formula for distinguishing a square from a circle. The seminal studies by Robert S. and Helen Merrell Lynd, *Middletown: A Study in Contemporary American Culture* (New York, 1929), and *Middletown in Transition: A Study in Cultural Conflicts* (New York and London, 1937), remain indispensable for studying a typical Indiana community in the 1920s and 1930s. Finally, David S. Landes, *Revolution in Time: Clocks and the Making of the Modern World* (Cambridge, Mass., 1983), helps place the difficulties of the Indiana legislature with daylight saving time in the perspective of a universal problem faced by mankind.

APPENDIX A:

TABLES

Table 1: Speakers of the House

Year	Name	County	Party[a]
1816-17	Isaac Newton Blackford	Knox	
1817-18	Amos Lane	Dearborn	
1818-19	Williamson Dunn	Jefferson	
1819-20	Williamson Dunn	Jefferson	
1820-21	William Graham	Jackson	
1821-22	Samuel Milroy	Washington	
1822-23	General Washington Johnston	Knox	
1823-24	David Hervey Maxwell	Monroe	AD
1825	Stephen C. Stevens	Switzerland	AJ
1825-26	Robert Morgan Evans	Gibson	AJ
1826-27	Harbin H. Moore	Harrison	AJ
1827-28	Harbin H. Moore	Harrison	AJ
1828-29	Isaac Howk	Clark	AJ
1829-30	Ross Smiley	Union	J
1830-31	Isaac Howk	Clark	AJ
1831-32	Harbin H. Moore	Floyd	AJ
1832-33	John Wesley Davis	Sullivan	J
1833-34	Nathan Billings Palmer	Jefferson	J
1834-35	James Gregory	Warren	W
1835-36	Caleb Blood Smith[b]	Fayette	W
1836-37	Caleb Blood Smith	Fayette	W
1837-38	Thomas Jefferson Evans	Fountain	W
1838-39	Thomas Jefferson Evans	Fountain	W
1839-40	James Gray Read	Clark	D
1840-41	Samuel Judah	Knox	W
1841-42	John Wesley Davis	Sullivan	D
1842-43	Thomas Jefferson Henley	Clark	D
1843-44	Andrew L. Robinson	Carroll	D
1844-45	Alexander Campbell Stevenson	Putnam	W
1845-46	John Smith Simonson	Clark	D
1846-47	Robert N. Carnan	Knox	W
1847-48	William Anderson Porter	Harrison	W
1848-49	George Whitfield Carr	Lawrence	D

[a]The first six speakers served before politicians in Indiana designated themselves by factional or party labels. From 1823-24 to 1833-34 speakers served during a period in which politicians were designated according to the candidate that they supported for president of the United States: AD = Pro-Adams; AJ = Anti-Jackson; J = Pro-Jackson. Beginning with the 1834-35 session, all speakers have been affiliated with one of the two major parties: W = Whig; D = Democrat; F = Fusionist; R = Republican.

[b]Caleb B. Smith, twenty-seven years old at the 1835-36 session, William H. English, twenty-nine years old at the 1851-52 session, and Oliver B. Torbet, twenty-five years old in 1853, were the three youngest speakers during the nineteenth century. Charles H. Bedwell, thirty years old in 1915, Birch E. Bayh, who turned thirty-one during the 1959 session, and Phillip E. Bainbridge, thirty-two years old in 1975, were the three youngest speakers during the twentieth century.

Table 1: Speakers of the House, continued

Year	Name	County	Party[a]
1849-50	George Whitfield Carr	Lawrence	D
1850-51	Ebenezer Dumont	Dearborn	D
1851-52	John Wesley Davis (Resigned 4-6-52)	Sullivan	D
	William Hayden English[b] (Elected 4-8-52)	Scott	D
1853	Oliver Brooks Torbet[b]	Dearborn	D
1855	David Kilgore	Delaware	F
1857	Ballard Smith	Perry	D
1858ss	Jonathan W. Gordon	Marion	R
1859	Jonathan W. Gordon	Marion	R
1861	Cyrus McCracken Allen	Knox	R
1861ss	Cyrus McCracken Allen	Knox	R
1863	Samuel Hamilton Buskirk	Monroe	D
1865	John Upfold Pettit	Wabash	R
1865ss	John Upfold Pettit	Wabash	R
1867	David Cummins Branham	Jefferson	R
1869	Ambrose P. Stanton	Marion	R
1869ss	George Abraham Buskirk	Monroe	R
1871	William Gray Mack	Vigo	D
1872ss	William Kirkpatrick Edwards	Vigo	R
1873	William Kirkpatrick Edwards	Vigo	R
1875	David Turpie	Marion	D
1875ss	David Turpie	Marion	D
1877	John Overmyer	Jennings	R
1877ss	John Overmyer	Jennings	R
1879	Henry Sullivan Cauthorn	Knox	D
1879ss	Henry Sullivan Cauthorn	Knox	D
1881	William Marion Ridpath	Clay	R
1881ss	William Marion Ridpath	Clay	R
1883	William Dallas Bynum	Marion	D
1885	Charles LaFayette Jewett	Floyd	D
1885ss	Charles LaFayette Jewett	Floyd	D
1887	Warren Grover Sayre	Wabash	R
1889	Mason Jenks Niblack	Knox	D
1891	Mason Jenks Niblack	Knox	D
1893	James B. Curtis	Marion	D
1895	Justus C. Adams	Marion	R
1897	Henry Corbin Pettit	Wabash	R
1899	Frank Leslie Littleton	Marion	R
1901	Samuel R. Artman	Boone	R
1903	Henry Wright Marshall, Sr.	Tippecanoe	R

Table 1: Speakers of the House, continued

Year	Name	County	Party[a]
1905	Sydney Wilberforce Cantwell	Blackford	R
1907	Emmett Forrest Branch	Morgan	R
1908ss	Emmett Forrest Branch	Morgan	R
1909	Thomas Michael Honan	Jackson	D
1911	Albert Julius Veneman	Vanderburgh	D
1913	Homer Livingstone Cook	Marion	D
1915	Charles Haddon Bedwell[b]	Sullivan	D
1917	Jesse Ernest Eschbach	Kosciusko	R
1919	Jesse Ernest Eschbach	Kosciusko	R
1920ss	Jesse Ernest Eschbach	Kosciusko	R
1921	John Fletcher McClure	Madison	R
1921ss	Claude Archer Smith	Gibson	R
1923	Raymond Charles Morgan	Henry	R
1925	Harry Guyer Leslie	Warren	R
1927	Harry Guyer Leslie	Tippecanoe	R
1929	James Merril Knapp	Wayne	R
1931	Walter Dennis Myers	Marion	D
1932ss	Walter Dennis Myers	Marion	D
1933	Earl Henry Crawford	Wayne	D
1935	Edward Henry Stein	Greene	D
1936ss	Edward Henry Stein	Greene	D
1937	Edward Henry Stein	Greene	D
1938ss	Edward Henry Stein	Greene	D
1939	James Merril Knapp	Wayne	R
1941	James Merril Knapp	Wayne	R
1943	William Hobart Creighton	Kosciusko	R
1944ss	William Hobart Creighton	Kosciusko	R
1945	William Hobart Creighton	Kosciusko	R
1947	William Hobart Creighton	Kosciusko	R
1949	Robert Henry Heller	Adams	D
1951	W. O. Hughes	Allen	R
1951ss	W. O. Hughes	Allen	R
1953	James Douglas Allen	Washington	R
1955	George Straub Diener	Marion	R
1957	George Straub Diener	Marion	R
1959	Birch Evans Bayh, Jr.[b]	Vigo	D
1961	Richard Wayne Guthrie	Marion	R
1963	Richard Wayne Guthrie	Marion	R
1963ss	Richard Wayne Guthrie	Marion	R
1965	Richard Clay Bodine	St. Joseph	D
1965ss	Richard Clay Bodine	St. Joseph	D
1967	Otis Ray Bowen	Marshall	R
1969	Otis Ray Bowen	Marshall	R

Table 1: Speakers of the House, continued

Year	Name	County	Party[a]
1971-72	Otis Ray Bowen	Marshall	R
1973-74	Kermit Owen Burrous	Miami	R
1975-76	Phillip Eugene Bainbridge[b]	Lake	D
1977-78	Kermit Owen Burrous	Miami	R
1979-80	Kermit Owen Burrous	Miami	R
1981-82	James Roberts Dailey	Delaware	R
1983-84	James Roberts Dailey	Delaware	R
1985-86	James Roberts Dailey	Delaware	R
1987	Paul Steven Mannweiler	Marion	R

Table 2: Presiding Officers of the Senate

Session

1 November 4, 1816-January 3, 1817. 61 calendar days.
President *Pro Tempore* John Paul, Jefferson County, November 4-7, 1816.
Lieutenant Governor Christopher Harrison, Washington County, November 7, 1816-January 3, 1817.

2 December 1, 1817-January 29, 1818. 60 calendar days.
Lieutenant Governor Christopher Harrison.

3 December 7, 1818-January 2, 1819.[a] 27 calendar days.
President *Pro Tempore* John Paul.

4 December 6, 1819-January 22, 1820. 48 calendar days.
President *Pro Tempore* James Beggs, Clark County, December 6-8, 1819.
Lieutenant Governor Ratliff Boon, Warrick County, December 8, 1819-January 22, 1820.

5 November 27, 1820-January 9, 1821. 44 calendar days.
Lieutenant Governor Ratliff Boon.

6 November 19, 1821-January 3, 1822. 46 calendar days.
Lieutenant Governor Ratliff Boon.

7 December 2, 1822-January 11, 1823. 41 calendar days.
President *Pro Tempore* William Graham, Jackson County, December 2-4, 1822.[b]
Lieutenant Governor Ratliff Boon, December 4, 1822-January 11, 1823.

8 December 1, 1823-January 31, 1824. 62 calendar days.
Lieutenant Governor Ratliff Boon, December 1-2, 1823, December 4, 1823-January 30, 1824.[c]
President *Pro Tempore* William Graham, December 2-3, 1823.
President *Pro Tempore* James Brown Ray, Franklin County, January 30-31, 1824.

9 January 10-February 12, 1825. 34 days.
President *Pro Tempore* James Brown Ray.

10 December 5, 1825-January 21, 1826. 48 calendar days.
President *Pro Tempore* Milton Stapp, Jefferson County, December 5-7, 1825.
Lieutenant Governor John H. Thompson, Clark County, December 7, 1825-January 21, 1826.

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[a]Due to a dispute with Governor Jonathan Jennings, Christopher Harrison resigned as lieutenant governor on December 17, 1818, and never presided during the 3rd General Assembly.

[b]On September 12, 1822, Ratliff Boon became governor to serve the unexpired term of Governor Jennings who had resigned to serve in the United States House of Representatives. Boon again became lieutenant governor on December 4, 1822, upon the inauguration of William Hendricks as governor.

[c]Lieutenant Governor Ratliff Boon was absent December 2-3, 1823, and William Graham was elected president *pro tempore*. Boon resigned as lieutenant governor on January 30, 1824, to become a candidate for Congress and the office remained vacant during the 1825 session. James Brown Ray was elected president *pro tempore* upon Boon's resignation.

Table 2: Presiding Officers of the Senate, continued

Session	
11	December 4, 1826-January 27, 1827. 55 calendar days. Lieutenant Governor John H. Thompson.
12	December 3, 1827-January 24, 1828. 53 calendar days. Lieutenant Governor John H. Thompson.
13	December 1, 1828-January 24, 1829. 55 calendar days. Lieutenant Governor John H. Thompson, December 1-3, 1828. Lieutenant Governor Milton Stapp, December 3, 1828-January 24, 1829.
14	December 7, 1829-January 30, 1830. 45 calendar days. Lieutenant Governor Milton Stapp.
15	December 6, 1830-February 10, 1831. 67 calendar days. Lieutenant Governor Milton Stapp.
16	December 5, 1831-February 3, 1832. 61 calendar days. Lieutenant Governor Milton Stapp, December 5-7, 1831. Lieutenant Governor David Wallace, Franklin County, December 7, 1831-February 3, 1832.
17	December 3, 1832-February 4, 1833. 64 calendar days. Lieutenant Governor David Wallace.
18	December 2, 1833-February 3, 1834. 64 calendar days. Lieutenant Governor David Wallace, December 2, 1833-February 1, 1834. President *Pro Tempore* Amaziah Morgan, Rush County, February 1-3, 1834.[d]
19	December 1, 1834-February 9, 1835. 71 calendar days. President *Pro Tempore* Amaziah Morgan, Whig, December 1-3, 1834. Lieutenant Governor David Wallace, Whig, December 3, 1833-February 9, 1835.
20	December 7, 1835-February 8, 1836. 64 calendar days. Lieutenant Governor David Wallace, Whig.
21	December 5, 1836-February 6, 1837. 64 calendar days. Lieutenant Governor David Wallace, Whig, December 5, 1836-February 2, 1837. President *Pro Tempore* Richard W. Thompson, Lawrence County, Whig, February 2-6, 1837.
22	December 4, 1837-February 19, 1838. 78 calendar days. President *Pro Tempore* Richard W. Thompson, Whig, December 4-6, 1837. Lieutenant Governor David Hillis, Jefferson County, Whig, December 6, 1837-January 1, 1838. President *Pro Tempore* Amaziah Morgan, Whig, January 1-February 19, 1838.
23	December 3, 1838-February 18, 1839. 78 calendar days. Lieutenant Governor David Hillis, Whig.

[d]Lieutenant Governor David Wallace was absent from February 1 to 3, 1834.

Table 2: Presiding Officers of the Senate, continued

Session	
	President *Pro Tempore* Daniel Sigler, Putnam County, Whig, February 18, 1839.
24	December 2, 1839-February 24, 1840. 85 calendar days.
	Lieutenant Governor David Hillis, Whig.
25	December 7, 1840-February 15, 1841. 71 calendar days.
	Lieutenant Governor David Hillis, Whig, December 7-9, 1840.
	Lieutenant Governor Samuel Hall, Gibson County, Whig, December 9, 1840-February 15, 1841.
26	December 6, 1841-January 31, 1842. 57 calendar days.
	Lieutenant Governor Samuel Hall, Whig.
27	December 5, 1842-February 13, 1843. 71 calendar days.
	President *Pro Tempore* Thomas D. Walpole, Hancock County, Whig.
	Lieutenant Governor Samuel Hall, Whig, absent entire session.
28	December 4, 1843-January 15, 1844. 43 calendar days.
	President *Pro Tempore* Thomas D. Walpole, Whig, December 4-6, 1843.
	Lieutenant Governor Jesse D. Bright, Jefferson County, Democrat, December 6, 1843-January 15, 1844.
29	December 2, 1844-January 13, 1845. 43 calendar days.
	Lieutenant Governor Jesse D. Bright, Democrat.
30	December 1, 1845-January 20, 1846. 51 calendar days.
	Lieutenant Governor Jesse D. Bright, Democrat, December 1-6, 1845.[e]
	President *Pro Tempore* Godlove S. Orth, Tippecanoe County, Whig, December 12, 1845-January 12, 1846.
	President *Pro Tempore* James G. Read, Clark County, Democrat, January 12-20, 1846.
31	December 7, 1846-January 28, 1847. 53 calendar days.
	President *Pro Tempore* James G. Read, Democrat, December 7-9, 1846.
	Lieutenant Governor Paris C. Dunning, Monroe County, Democrat, December 9, 1846-January 28, 1847.
32	December 6, 1847-February 17, 1848. 74 calendar days.
	Lieutenant Governor Paris C. Dunning, Democrat.
33	December 4, 1848-January 17, 1849. 45 calendar days.[f]

[e]Jesse D. Bright resigned as lieutenant governor on December 6, 1845, when he was elected to the United States Senate. With the parties tied 25 to 25, it took 101 ballots before Whig Godlove S. Orth was elected president *pro tempore* on condition that he resign near the end of the session in favor of a Democrat. James G. Read was acting president *pro tempore* from December 8-12, 1845, while the balloting took place.

[f]*Senate Journal*, 1848-49, p. 583, incorrectly designates January 5, 1849, as the last day of the 33rd General Assembly. This error was repeated on the session list in *A Biographical Directory of the Indiana General Assembly, 1816-1899* (Indianapolis, 1980), 498. Other evidence in the *Senate Journal* and the *House Journal*, 1848-49, shows that the session did not adjourn *sine die* until January 17.

Table 2: Presiding Officers of the Senate, continued

Session	
	Lieutenant Governor Paris C. Dunning, Democrat, December 4-27, 1848.[g] President *Pro Tempore* James G. Read, Democrat, December 29, 1848-January 17, 1849.
34	December 3, 1849-January 21, 1850. 50 calendar days. President *Pro Tempore* James G. Read, Democrat, December 3-5, 1849. Lieutenant Governor James H. Lane, Dearborn County, Democrat, December 5, 1849-January 21, 1850.
35	December 30, 1850-February 14, 1851. 47 calendar days. Lieutenant Governor James H. Lane, Democrat.
36	December 1, 1851-March 10, 1852; April 20, 1852-June 21, 1852. 204 calendar days. Lieutenant Governor James H. Lane, Democrat, except when absent. President *Pro Tempore* Samuel S. Mickle, Adams County, Democrat, February 14, March 6, April 23, May 20, June 8-21, 1852.
37	January 6-March 7, 1853. 61 calendar days. Lieutenant Governor James H. Lane, Democrat, January 6-10, 1853. Lieutenant Governor Ashbel P. Willard, Floyd County, Democrat, January 10-March 7, 1853. President *Pro Tempore* Andrew Humphreys, Greene County, Democrat, March 4, 1853.
38	January 4-March 5, 1855. 61 calendar days. Lieutenant Governor Ashbel P. Willard, Democrat. President *Pro Tempore* Richard D. Slater, Sr., Dearborn County, Democrat, March 5, 1855.
39	January 8-March 9, 1857. 61 calendar days. Lieutenant Governor Ashbel P. Willard, Democrat, January 8-12, 1857. Lieutenant Governor Abram A. Hammond, Marion County, Democrat, January 12-March 9, 1857. President *Pro Tempore* Lewis Burk, Wayne County, Republican, February 2, 4, 1857.[h]
40	Special session, November 20-December 25, 1858, 36 calendar days; regular session, January 6-March 7, 1859, 61 calendar days. Lieutenant Governor Abram A. Hammond, Democrat, entire special session, and January 21-26, March 4-7, 1859. President *Pro Tempore* John R. Cravens, Jefferson County, Republican, January 6-21, January 27-March 4, 1859.

[g]Paris C. Dunning resigned on December 27, 1848, to become governor when James Whitcomb was elected to the United States Senate. It took 31 ballots from December 27-29 before James G. Read was elected president *pro tempore*.

[h]Burk was called to preside *pro tempore* and the Republican majority proceeded to vacate the seat of Democrat Leroy Woods on the grounds that Woods, holding the position as chaplain of the Jeffersonville Prison, was in violation of the constitutional prohibition regarding dual office holding.

Table 2: Presiding Officers of the Senate, continued

Session

41 January 10-March 11, 1861. 61 calendar days.
President *Pro Tempore* John R. Cravens, Republican, January 10-14, January 17-February 23, February 25-March 11, 1861.
Lieutenant Governor Oliver P. Morton, Wayne County, Republican, January 14-16, 1861.[i]

42 April 24-June 2, 1861.[j] 40 calendar days.
President *Pro Tempore* John R. Cravens, Republican, April 24-30, May 2-June 2, 1861.

43 January 8-March 9, 1863. 61 calendar days.
President *Pro Tempore* Paris C. Dunning, Monroe County, Democrat.

44 Regular session, January 5-March 6, 1865, 61 calendar days; special session, November 13-December 22, 1865, 40 calendar days.
President *Pro Tempore* Paris C. Dunning, Republican, January 5-9, 27-30, November 16-December 22, 1865.
Lieutenant Governor Conrad Baker, Vanderburgh County, Republican, January 9-26, January 31-March 6, November 13-16, 1865.[k]

45 January 10-March 11, 1867, 61 calendar days.
Lieutenant Governor Conrad Baker, Republican, January 10-24, 1867.[l]
President *Pro Tempore* William Cumback, Decatur County, Republican, January 24-March 11, 1867.

46 Regular session, January 7-March 8, 1869, 61 calendar days; special session, April 8-May 17, 1869, 40 calendar days.
President *Pro Tempore* John R. Cravens, Republican, January 7-11, reelected January 20 and presided whenever the lieutenant governor was absent.
Lieutenant Governor William Cumback, Republican, January 11-20, January 22-March 8, April 8-May 12, 1869.
President *Pro Tempore* Isaac P. Gray, Randolph County, Republican, May 12-17, 1869.[m]

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[i]Morton resigned on January 16, 1861, to become governor when Henry S. Lane was elected to the United States Senate. On February 23, 1861, on motion, George D. Wagner, Warren County, Republican, was appointed president *pro tempore* during Cravens' absence. On February 25, 1861, in the absence of both Cravens and Wagner, DeWitt C. Anthony, Floyd County, Republican, was called to the chair.

[j]Numbered 42 by error; in reality a special session of 41st General Assembly. In Cravens' absence, May 1, 1861, on motion, William Clayborne Tarkington, Monroe County, Democrat, was chosen president *pro tempore*.

[k]Pleading new official duties, Baker resigned as presiding officer of the Senate on November 16 and Dunning was elected president *pro tempore* for the remainder of the special session.

[l]Baker resigned January 24, 1867, to become governor when Oliver P. Morton was elected to the United States Senate.

[m]Since he was a candidate for the U.S. Senate, on January 20, Cumback asked that Milton Stapp Robinson, Madison County, Republican, preside in his place. Instead, the Senate reelected Cravens president *pro tempore*.

Table 2: Presiding Officers of the Senate, continued

Session	
47	January 5-February 27, 1871. 54 calendar days. Lieutenant Governor William Cumback, Republican.
48	Special session, November 13-December 22, 1872, 40 calendar days; regular session, January 9-March 10, 1873, 61 calendar days. President *Pro Tempore* George W. Friedley, Lawrence County, Republican, presided during the special session, and January 9-13, 1873.[n] Lieutenant Governor Leonidas Sexton, Rush County, Republican, January 14-March 10, 1873.
49	Regular session, January 7-March 8, 1875, 61 calendar days; special session, March 9-15, 1875, 7 calendar days. Lieutenant Governor Leonidas Sexton, Republican.
50	Regular session, January 4-March 5, 1877, 61 calendar days; special session, March 6-15, 1877, 10 calendar days. Lieutenant Governor Leonidas Sexton, Republican, January 4-8, 1877. Lieutenant Governor Isaac P. Gray, Democrat, January 9-March 15, 1877.[o]
51	Regular session, January 9-March 10, 1879, 61 calendar days; special session, March 11-31, 1879, 21 calendar days. Lieutenant Governor Isaac P. Gray, Democrat.[p]
52	Regular session, January 6-March 7, 1881, 61 calendar days; special session, March 8-April 16, 1881, 40 calendar days. President *Pro Tempore* Frederick W. Viehe, Knox County, Democrat, January 6-11, 1881, in the absence of the lieutenant governor. Lieutenant Governor Thomas Hanna, Putnam County, Republican, January 11-April 16, 1881.
53	January 4-March 5, 1883. 61 calendar days. Lieutenant Governor Thomas Hanna, Republican. President *Pro Tempore* Rufus Magee, Cass County, Democrat, March 5, 1883.
54	Regular session, January 8-March 9, 1885, 61 calendar days; special session, March 10-April 13, 1885, 35 calendar days. Lieutenant Governor Thomas Hanna, Republican, January 8-12, 1885. Lieutenant Governor Mahlon D. Manson, Montgomery County, Democrat, January 13-April 13, 1885. President *Pro Tempore* Rufus Magee, Democrat, March 25-26, 28, April 1, 3, 1885.

[n]William Cumback resigned as lieutenant governor on March 27, 1871, and the office remained vacant until 1873.

[o]During the regular and special sessions, in the absence of the lieutenant governor, seven different senators (Robert C. Bell, John M. LaRue, Strother M. Stockslager, Elijah Hackleman, Henry A. Peed, Noah S. Givan, and Bartholomew H. Burrell), on motion, acted as president *pro tempore*.

[p]During the regular and special sessions, in the absence of the lieutenant governor, Senators Inman H. Fowler, Bartholomew H. Burrell, William F. Reiley, and Gustavus V. Menzies served as presiding officer. None was elected president *pro tempore* nor was the term used.

Table 2: Presiding Officers of the Senate, continued

Session	
	President *Pro Tempore* Alonzo Green Smith, Jennings County, Democrat, April 13, 1885.[q]
55	January 6-March 7, 1887. 61 calendar days.
	President *Pro Tempore* Alonzo Green Smith, Democrat.[r]
56	January 10-March 11, 1889. 61 calendar days.
	President *Pro Tempore* James F. Cox, Morgan County, Democrat, January 10-15, 1889.
	Lieutenant Governor Ira J. Chase, Hendricks County, Republican, January 15-March 11, 1889.
57	January 8-March 9, 1891. 61 calendar days.
	Lieutenant Governor Ira J. Chase, Republican.
	President *Pro Tempore* Francis M. Griffith, Switzerland County, Democrat, February 25, 1891, in the absence of Lieutenant Governor Chase.
58	January 5-March 6, 1893. 61 calendar days.
	President *Pro Tempore* Francis M. Griffith, Democrat, January 5-10.
	Lieutenant Governor Mortimer Nye, La Porte County, Democrat, January 10-March 6, 1893.[s]
59	January 10-March 11, 1895. 61 calendar days.
	President *Pro Tempore* Leonidas P. Newby, Henry County, Republican.
	Lieutenant Governor Mortimer Nye, Democrat.
60	January 7-March 8, 1897. 61 calendar days.
	President *Pro Tempore* Charles E. Shiveley, Wayne County, Republican.
	Lieutenant Governor Mortimer Nye, Democrat, January 7-11, 1897.
	Lieutenant Governor William S. Haggard, Tippecanoe County, Republican, January 11-March 8, 1897.
61	January 5-March 6, 1899. 61 calendar days.
	President *Pro Tempore* Leonidas P. Newby, Republican.

[q]In the absence of Magee and Manson, five senators (William J. Hilligass, Ferdinand Winter, James S. Shively, Haber J. May, and Inman H. Fowler) presided for part of a day. Though elected president *pro tempore* on the last day, Alonzo Green Smith did not preside.

[r]Democrat Mahlon D. Manson resigned as lieutenant governor in 1886. Although Republican Robert S. Robertson was elected to replace Manson, the office of lieutenant governor remained vacant during the 1887 session because the Senate refused to recognize Robertson as presiding officer. Instead, President *pro tempore* Alonzo Green Smith presided for the entire session. This development so strengthened the office of president *pro tempore* that election to the office has been a first order of business for the majority caucus at every subsequent session. From 1889 to 1969, the lieutenant governor normally presided when he and the president *pro tempore* belonged to the same political party. At the same time, the power to name members of and assign bills to committees was increasingly shared by the lieutenant governor and president *pro tempore*. When the lieutenant governor was of a different party than the Senate majority, he lost all control over committees and frequently was deprived of his power to preside.

[s]Rufus Magee, Cass County, Democrat, acted as president *pro tempore* on February 2, in the absence of the lieutenant governor. Although elected president *pro tempore* on the last day, Samuel B. Parker, Marshall County, Democrat, did not preside.

Table 2: Presiding Officers of the Senate, continued

Session	
	Lieutenant Governor William S. Haggard, Republican.
62	January 6-March 10, 1901. 61 calendar days.
	President *Pro Tempore* William R. Wood, Tippecanoe County, Republican.
	Lieutenant Governor William S. Haggard, Republican, January 6-14, 1901.
	Lieutenant Governor Newton W. Gilbert, Steuben County, Republican, January 14-March 10, 1901.
63	January 8-March 9, 1903. 61 calendar days.
	President *Pro Tempore* Frederick E. Matson, Marion County, Republican.
	Lieutenant Governor Newton W. Gilbert, Republican.
64	January 5-March 6, 1905. 61 calendar days.
	President *Pro Tempore* Edgar E. Hendee, Madison County, Republican.
	Lieutenant Governor Newton W. Gilbert, Republican, January 5-9, 1905.
	Lieutenant Governor Hugh Thomas Miller, Bartholomew County, Republican, January 9-March 6, 1905.
65	Regular session, January 10-March 11, 1907, 61 calendar days; special session, September 18-30, 1908, 13 calendar days.
	President *Pro Tempore* Fremont Goodwine, Warren County, Republican.
	Lieutenant Governor Hugh Thomas Miller, Republican.
66	January 7-March 8, 1909. 61 calendar days.
	President *Pro Tempore* William R. Wood, Tippecanoe County, Republican.
	Lieutenant Governor Hugh Thomas Miller, Republican, January 7-11, 1909.
	Lieutenant Governor Frank J. Hall, Rush County, Democrat, January 11-March 8, 1909.
67	January 5-March 6, 1911. 61 calendar days.
	President *Pro Tempore* Evan B. Stotsenburg, Floyd County, Democrat.
	Lieutenant Governor Frank J. Hall, Democrat, January 5-March 6, 1911.
68	January 9-March 10, 1913. 61 calendar days.
	President *Pro Tempore* George W. Curtis, Jr., Posey County, Democrat.
	Lieutenant Governor Frank J. Hall, Democrat, January 9-13, 1913.
	Lieutenant Governor William P. O'Neill, St. Joseph County, Democrat, January 13-March 10, 1913.
69	January 7-March 8, 1915. 61 calendar days.
	President *Pro Tempore* Frederick R. Van Nuys, Madison County, Democrat.
	Lieutenant Governor William P. O'Neill, Democrat.
70	January 4-March 5, 1917. 61 calendar days.
	President *Pro Tempore* Arthur R. Robinson, Marion County, Republican.
	Lieutenant Governor William P. O'Neill, Democrat, January 4-8, 1917.
	Lieutenant Governor Edgar D. Bush, Washington County, Republican, January 8-March 5, 1917.
71	Regular session, January 9-March 10, 1919, 61 calendar days; first special

Table 2: Presiding Officers of the Senate, continued

Session

session, January 16, 1920; second special session, July 12-30, 1920, 19 calendar days.
President *Pro Tempore* Harry E. Negley, Marion County, Republican.
Lieutenant Governor Edgar D. Bush, Republican.

72 Regular session, January 6-March 7, 1921, 61 calendar days; special session, December 14, 1921.
President *Pro Tempore* Oscar Ratts, Orange County, Republican.
Lieutenant Governor Edgar D. Bush, Republican, January 6-10, 1921.
Lieutenant Governor Emmett F. Branch, Morgan County, Republican, January 10-March 7, December 14, 1921.

73 January 4-March 5, 1923. 61 calendar days.
President *Pro Tempore* James J. Nejdl, Lake County, Republican.
Lieutenant Governor Emmett F. Branch, Republican.

74 January 8-March 9, 1925. 61 calendar days.
President *Pro Tempore* James J. Nejdl, Republican.
Lieutenant Governor F[rederick] Harold Van Orman, Vanderburgh County, Republican, January 12-March 9, 1925.

75 January 6-March 7, 1927. 61 calendar days.
President *Pro Tempore* James J. Nejdl, Republican.
Lieutenant Governor F. Harold Van Orman, Republican.

76 January 10-March 11, 1929. 61 calendar days.
President *Pro Tempore* Denver C. Harlan, Wayne County, Republican.
Lieutenant Governor F. Harold Van Orman, Republican, January 10-14, 1929.
Lieutenant Governor Edgar D. Bush, Republican, January 14-March 11, 1929.

77 Regular session, January 8-March 9, 1931, 61 calendar days; special session, July 7-August 15, 1932, 40 calendar days.
President *Pro Tempore* Lee J. Hartzell, Allen County, Republican.
Lieutenant Governor Edgar D. Bush, Republican.

78 January 5-March 6, 1933. 61 calendar days.
President *Pro Tempore* C[arrie] Anderson Ketchum, Decatur County, Democrat.
Lieutenant Governor Edgar D. Bush, Republican, January 5-9, 1933.
Lieutenant Governor M. Clifford Townsend, Grant County, Democrat, January 9-March 6, 1933.

79 Regular session, January 10-March 11, 1935, 61 calendar days; special session, March 5-18, 1936, 14 calendar days.
President *Pro Tempore* [Jay] Jacob Weiss, Marion County, Democrat.
Lieutenant Governor M. Clifford Townsend, Democrat.

80 Regular session, January 7-March 8, 1937, 61 calendar days; special session, July 19-30, 1938, 12 calendar days.

Table 2: Presiding Officers of the Senate, continued

Session

President *Pro Tempore* Thurman A. Gottschalk, Adams County, Democrat, during regular session.
President *Pro Tempore* E[dward] Curtis White, Marion County, Democrat, during special session.
Lieutenant Governor M. Clifford Townsend, Democrat, January 7-11, 1937.
Lieutenant Governor Henry F. Schricker, Starke County, Democrat, January 11-March 8, 1937, July 19-30, 1938.

81 January 5-March 6, 1939. 61 calendar days.
President *Pro Tempore* E. Curtis White, Democrat.
Lieutenant Governor Henry F. Schricker, Democrat.

82 January 9-March 10, 1941. 61 calendar days.
President *Pro Tempore* William E. Jenner, Martin County, Republican.
Lieutenant Governor Henry F. Schricker, Democrat, January 9-13, 1941.
Lieutenant Governor Charles M. Dawson, Marion County, Republican, January 13-March 10, 1941.

83 Regular session, January 7-March 8, 1943, 61 calendar days; first special session, April 11-14, 1944, 4 calendar days; second special session, November 4, 1944.
President *Pro Tempore* Thurman A. Biddinger, Grant County, Republican, regular session.
President *Pro Tempore* John W. Van Ness, Porter County, Republican, first and second special sessions.
Lieutenant Governor Charles M. Dawson, Republican.

84 January 4-March 5, 1945. 61 calendar days.
President *Pro Tempore* John W. Van Ness, Republican.
Lieutenant Governor Charles M. Dawson, Republican, January 4-8, 1945.
Lieutenant Governor Richard T. James, Jay County, Republican, January 8-March 5, 1945.

85 January 9-March 10, 1947. 61 calendar days.
President *Pro Tempore* John W. Van Ness, Republican.
Lieutenant Governor Richard T. James, Republican.

86 January 6-March 7, 1949. 61 calendar days.
President *Pro Tempore* John W. Van Ness, Republican.
Lieutenant Governor Richard T. James, Republican, January 6-10, 1949.
Lieutenant Governor John A. Watkins, Greene County, Democrat, January 11-March 7, 1949.

87 Regular session, January 4-March 5, 1951, 61 calendar days; special session, September 24-October 26, 1951, 33 calendar days.
President *Pro Tempore* John W. Van Ness, Republican.
Lieutenant Governor John A. Watkins, Democrat.

88 January 8-March 9, 1953. 61 calendar days.
President *Pro Tempore* John W. Van Ness, Republican.

Table 2: Presiding Officers of the Senate, continued

Session	
	Lieutenant Governor John A. Watkins, Democrat, January 8-12, 1953.
	Lieutenant Governor Harold W. Handley, La Porte County, Republican, January 12-March 9, 1953.
89	January 6-March 7, 1955. 61 calendar days.
	President *Pro Tempore* John W. Van Ness, Republican.
	Lieutenant Governor Harold W. Handley, Republican.
90	January 10-March 11, 1957. 61 calendar days.
	President *Pro Tempore* John W. Van Ness, Republican.
	Lieutenant Governor Harold W. Handley, Republican, January 10-14, 1957.
	Lieutenant Governor Crawford F. Parker, Henry County, Republican, January 14-March 11, 1957.
91	January 8-March 9, 1959. 61 calendar days.
	President *Pro Tempore* C[harles] Wendell Martin, Marion County, Republican.
	Lieutenant Governor Crawford F. Parker, Republican.
92	January 5-March 6, 1961. 61 calendar days.
	President *Pro Tempore* S[amuel] Hugh Dillin, Pike County, Democrat.
	Lieutenant Governor Crawford F. Parker, Republican, January 5-9, 1961.
	Lieutenant Governor Richard O. Ristine, Montgomery County, Republican, January 9-March 6, 1961.
93	Regular session, January 10-March 11, 1963, 61 calendar days; special session, March 12-April 20, 1963, 40 calendar days.
	President *Pro Tempore* D[avid] Russell Bontrager, Elkhart County, Republican.
	Lieutenant Governor Richard O. Ristine, Republican.
94	Regular session, January 7-March 8, 1965, 61 calendar days; first special session, June 8, 1965; second special session, October 18-27, November 22, 1965, 11 calendar days.
	President *Pro Tempore* Jack H. Mankin, Vigo County, Democrat.
	Lieutenant Governor Richard O. Ristine, Republican, January 7-11, 1965.
	Lieutenant Governor Robert L. Rock, Madison County, Democrat, January 11-March 8, June 8, October 18-27, November 22, 1965.
95	January 5-March 6, 1967. 61 calendar days.
	President *Pro Tempore* Jack H. Mankin, Democrat.
	Lieutenant Governor Robert L. Rock, Democrat.
96	January 9-March 10, 1969. 61 calendar days.
	President *Pro Tempore* Allan E. Bloom, Allen County, Republican.
	Lieutenant Governor Robert L. Rock, Democrat, January 9-13, 1969.
	Lieutenant Governor Richard E. Folz, Vanderburgh County, Republican, January 13-March 10, 1969.
97	Long session, January 12-April 16, 1971, 61 working days; short session, November 15, 1971, January 11-February 28, 1972, 30 working days.

Table 2: Presiding Officers of the Senate, continued

Session	
	President *Pro Tempore* Phillip E. Gutman, Allen County, Republican.[1] Lieutenant Governor Richard E. Folz, Republican.
98	Long session, November 15, 1972, January 8-April 19, 1973, 61 working days; short session, November 20, 1973, January 7-February 15, 1974, 30 working days. President *Pro Tempore* Phillip E. Gutman, Republican. Lieutenant Governor Robert D. Orr, Vanderburgh County, Republican, January 8, 1973, to end of both sessions.
99	Long session, November 19, 1974, January 6-April 30, 1975, 61 working days; short session, November 18, 1975, January 5-February 20, 1976, 30 working days. President *Pro Tempore* Phillip E. Gutman, Republican. Lieutenant Governor Robert D. Orr, Republican.
100	Long session, November 16, 1976, January 5-April 30, 1977, 61 working days; special session, May 23, 1977; short session, November 22, 1977, January 9-March 4, 1978, 30 working days. President *Pro Tempore* Robert J. Fair, Gibson County, Democrat. Lieutenant Governor Robert D. Orr, Republican.
101	Long session, November 21, 1978, January 8-April 5, 1979, 61 working days; short session, November 20, 1979, January 7-February 26, 1980, 30 working days. President *Pro Tempore* Martin K. Edwards, Henry County, Republican. Lieutenant Governor Robert D. Orr, Republican.
102	Long session, November 18, 1980, January 7-April 30, 1981, 61 working days; special session, May 27-29, 1981, 3 working days; short session, November 17, 1981, January 5-February 20, 1982, 30 working days. President *Pro Tempore* Robert D. Garton, Bartholomew County, Republican. Lieutenant Governor John M. Mutz, Marion County, Republican, January 12, 1981, to end of short session.
103	Long session, November 16, 1982, January 5-April 15, 1983, 61 working days; special session, December 6-16, 1982, 11 working days; short session, November 22, 1983, January 4-March 1, 1984, 30 working days. President *Pro Tempore* Robert D. Garton, Republican. Lieutenant Governor John M. Mutz, Republican.

[1]After Phillip E. Gutman was elected president *pro tempore* in 1971, he removed the power of the lieutenant governor to appoint committees, to assign bills to individual committees, or to name members of conference committees. When the change was sustained by the majority caucus, authority to run the Senate was transferred to the office of president *pro tempore*. Since 1971, the only role left to the lieutenant governor in the Senate is to preside in a ceremonial fashion and issue the casting vote in event of a tie. The real power to run the Senate now resides with the president *pro tempore*.

Table 2: Presiding Officers of the Senate, continued

Session	
104	Long session, November 20, 1984, January 7-April 15, 1985, 61 working days; short session, November 19, 1985, January 7-March 5, 1986, 30 working days. President *Pro Tempore* Robert D. Garton, Republican. Lieutenant Governor John M. Mutz, Republican.

Table 3: Governors of Indiana

Name	Party	Term	County
Jonathan Jennings[a]		Nov. 7, 1816-Sept. 12, 1822	Clark
Ratliff Boon		Sept. 12-Dec. 4, 1822	Warrick
William Hendricks[b]		Dec. 4, 1822-Feb.12, 1825	Jefferson
James B. Ray		Feb. 12, 1825-Dec. 7, 1831	Franklin
Noah Noble	W	Dec. 7, 1831-Dec. 6, 1837	Marion
David Wallace	W	Dec. 6, 1837-Dec. 9, 1840	Fountain
Samuel Bigger	W	Dec. 9, 1840-Dec. 6, 1843	Rush
James Whitcomb[c]	D	Dec. 6, 1843-Dec. 26, 1848	Monroe
Paris C. Dunning	D	Dec. 26, 1848-Dec. 5, 1849	Monroe
Joseph A. Wright	D	Dec. 5, 1849-Jan. 12, 1857	Parke
Ashbel P. Willard[d]	D	Jan. 12, 1857-Oct. 4, 1860	Floyd
Abram A. Hammond	D	Oct. 4, 1860-Jan. 14, 1861	Marion
Henry S. Lane[e]	R	Jan. 14-16, 1861	Montgomery
Oliver P. Morton[f]	R	Jan. 16, 1861-Jan. 23, 1867	Wayne
Conrad Baker	R	Jan. 23, 1867-Jan. 13, 1873	Vanderburgh
Thomas A. Hendricks	D	Jan. 13, 1873-Jan. 8, 1877	Shelby
James D. Williams[g]	D	Jan. 8, 1877-Nov. 20, 1880	Knox
Isaac P. Gray	D	Nov. 20, 1880-Jan. 10, 1881	Randolph
Albert G. Porter	R	Jan. 10, 1881-Jan. 12, 1885	Marion
Isaac P. Gray	D	Jan. 12, 1885-Jan. 14, 1889	Randolph
Alvin P. Hovey[h]	R	Jan. 14, 1889-Nov. 23, 1891	Posey
Ira J. Chase	R	Nov. 23, 1891-Jan. 9, 1893	Hendricks
Claude Matthews	D	Jan. 9, 1893-Jan. 11, 1897	Vermillion
James A. Mount	R	Jan. 11, 1897-Jan. 14, 1901	Montgomery
Winfield T. Durbin	R	Jan. 14, 1901-Jan. 9, 1905	Madison
J. Frank Hanly	R	Jan. 9, 1905-Jan. 11, 1909	Warren
Thomas R. Marshall	D	Jan. 11, 1909-Jan. 13, 1913	Whitley
Samuel M. Ralston	D	Jan. 13, 1913-Jan. 8, 1917	Boone

[a]Jonathan Jennings resigned as governor on September 12, 1822, after his election to the United States House of Representatives. Ratliff Boon served the remainder of Jennings' term.

[b]William Hendricks resigned as governor on February 12, 1825, after his election to the United States Senate. James B. Ray served the remainder of Hendricks' term.

[c]James Whitcomb resigned as governor on December 26, 1848, after his election to the United States Senate. Paris C. Dunning served the remainder of Whitcomb's term.

[d]Ashbel P. Willard died in office, October 4, 1860. Abram A. Hammond served the remainder of Willard's term.

[e]Henry S. Lane resigned as governor on January 16, 1861, after his election to the United States Senate. Oliver P. Morton served the remainder of Lane's term.

[f]Oliver P. Morton resigned as governor on January 23, 1867, after his election to the United States Senate. Conrad Baker served the remainder of Morton's term.

[g]James D. Williams died in office, November 20, 1880. Isaac P. Gray served the remainder of Williams' term.

[h]Alvin P. Hovey died in office, November 23, 1891. Ira J. Chase served the remainder of Hovey's term.

Table 3: Governors of Indiana, continued

Name	Party	Term	County
James P. Goodrich	R	Jan. 8, 1917-Jan. 10, 1921	Randolph
Warren T. McCray[i]	R	Jan. 10, 1921-April 30, 1924	Newton
Emmett F. Branch	R	April 30, 1924-Jan. 12, 1925	Morgan
Ed Jackson	R	Jan. 12, 1925-Jan. 14, 1929	Marion
Harry G. Leslie	R	Jan. 14, 1929-Jan. 9, 1933	Tippecanoe
Paul V. McNutt	D	Jan. 9, 1933-Jan. 11, 1937	Monroe
M. Clifford Townsend	D	Jan. 11, 1937-Jan. 13, 1941	Grant
Henry F. Schricker	D	Jan. 13, 1941-Jan. 8, 1945	Starke
Ralph F. Gates	R	Jan. 8, 1945-Jan. 10, 1949	Whitley
Henry F. Schricker	D	Jan. 10, 1949-Jan. 12, 1953	Starke
George N. Craig	R	Jan. 12, 1953-Jan. 14, 1957	Clay
Harold W. Handley	R	Jan. 14, 1957-Jan. 9, 1961	La Porte
Matthew E. Welsh	D	Jan. 9, 1961-Jan. 11, 1965	Knox
Roger D. Branigin	D	Jan. 11, 1965-Jan. 13, 1969	Tippecanoe
Edgar D. Whitcomb	R	Jan. 13, 1969-Jan. 8, 1973	Jackson
Otis R. Bowen	R	Jan. 8, 1973-Jan. 12, 1981	Marshall
Robert D. Orr	R	Jan. 12, 1981-	Vanderburgh

[i]Warren T. McCray resigned his office April 30, 1924. Emmett F. Branch served the remainder of McCray's term.

Table 4: Birthplaces of Legislators

Place of Birth	Served 1816-1851	Served 1851-1889	Served 1891-1929	Served 1931-1969	Served 1971-1984
Alabama	—	4	1	3	2
Arkansas	—	1	—	4	—
California	—	—	1	1	—
Connecticut	33 (2.2%)[a]	16	1	—	—
Colorado	—	—	—	1	1
Delaware	4	7	1	—	—
District of Columbia	2	2	2	5	—
Florida	—	1	—	2	1
Georgia	2	—	—	—	—
Idaho	—	—	—	1	—
Illinois	1	7	49 (2.7%)	53 (4.2%)	22 (6.0%)
Indiana	101 (6.7)	671 (34.1%)	1,299 (72.7)	1,013 (80.5)	268 (74)
Iowa	—	2	8	9	4
Kansas	—	—	3	4	—
Kentucky	277 (18.3)	218 (11.1)	27 (1.6)	18 (1.4)	9 (2.5)
Louisiana	1	1	—	—	2
Maine	8	10	1	—	—
Maryland	58 (3.8)	40 (2.0)	6	—	—
Massachusetts	25 (1.7)	7	4	5	2
Michigan	2	6	21 (1.2)	16	12 (3.3)
Minnesota	—	1	1	2	2
Mississippi	—	1	—	1	1
Missouri	—	1	5	8	—
Montana	—	—	—	1	—
New Hampshire	6	9	—	1	—
New Jersey	35 (2.3)	14	5	2	2
New Mexico	—	—	—	1	—
New York	97 (6.4)	122 (6.2)	25 (1.5)	10	2
North Carolina	118 (7.8)	45 (2.3)	11	1	1
North Dakota	—	—	—	2	2
Ohio	136 (9.0)	371 (18.9)	171 (9.6)	35 (2.8)	13 (3.6)
Oklahoma	—	—	—	6	—
Oregon	—	—	—	1	—
Pennsylvania	183 (12.1)	118 (6.0)	38 (2.2)	15 (1.2)	2
Rhode Island	4	2	—	1	—
South Carolina	27 (1.8)	11	—	1	1
South Dakota	—	—	1	1	—
Tennessee	53 (3.5)	38 (1.9)	13	5	3

[a]Percentages less than 1.0% are not reported

Table 4: Birthplaces of Legislators, continued

Place of Birth	Served 1816-1851	Served 1851-1889	Served 1891-1929	Served 1931-1969	Served 1971-1984
Texas	—	—	1	3	1
Vermont	24 (1.6)	24 (1.2)	1	—	—
Virginia	229 (15.1)	67 (3.4)	7	2	1
Washington	—	—	—	2	—
West Virginia	—	37 (1.9)	4	3	2
Wisconsin	—	—	5	3	1
Canada	4	8	8	—	1
Czechoslovakia	—	—	2	3	1
Denmark	—	—	1	1	—
England	1	15	11	1	—
France	—	4	1	—	—
Germany	—	40 (2.0)	35 (2.1)	3	—
Hungary	—	—	—	1	—
Ireland	25 (1.7)	22 (1.1)	5	—	—
Italy	—	—	—	2	1
Poland	—	—	2	1	—
Russia	—	—	—	1	—
Scotland	7	7	3	1	—
Switzerland	1	1	—	—	—
Wales	—	1	—	1	—
Yugoslavia	—	—	—	1	—
Other	1	—	—	—	—
Born at Sea	—	1	1	—	—
Unknown	48 (3.2)	13	5	—	—
N	1,513	1,966	1,786	1,258	360

Table 5: Freshman Legislators in Each Session[a]

Session	Freshman Senators	Freshman Representatives	Session	Freshman Senators	Freshman Representatives
1816-17	10	30	1849-50	13	71
1817-18	1	15	1850-51	15	69
1818-19	1	14	1851-52	19	65
1819-20	5	16	1853	44	78
1820-21	4	13	1855	21	71
1821-22	6	30	1857	23	68
1822-23	6	31	1859	24	74
1823-24	3	22	1861	20	78
1825	2	24	1863	26	72
1825-26	5	21	1865	27	82
1826-27	7	22	1867	23	74
1827-28	2	23	1869	22	72
1828-29	5	25	1871	23	70
1829-30	6	28	1873	22	78
1830-31	2	22	1875	23	87
1831-32	13	47	1877	26	75
1832-33	5	31	1879	23	74
1833-34	14	44	1881	23	79
1834-35	9	44	1883	24	75
1835-36	8	37	1885	19	61
1836-37	21	51	1887	25	77
1837-38	11	48	1889	27	61
1838-39	11	49	1891	23	71
1839-40	16	54	1893	24	75
1840-41	13	55	1895	23	81
1841-42	20	61	1897	25	74
1842-43	14	45	1899	25	68
1843-44	15	62	1901	22	65
1844-45	14	45	1903	23	73
1845-46	16	59	1905	24	72
1846-47	14	66	1907	21	62
1847-48	13	63	1909	21	69
1848-49	10	59	1911	21	60

[a]Figures in this table reflect all legislators who were seated during any portion of a session. This includes both winners and losers of contested elections, as well as those who died or resigned during their legislative service and those who subsequently filled such vacancies. By way of example, 29 representatives were authorized to sit at the first session of the General Assembly—but the table lists 30 "freshman representatives." This seeming discrepancy results from the resignation of James Noble and the subsequent election of George L. Murdock to fill the vacancy. For detailed information on the legislators who served during a particular session, see the session lists and accompanying notes in *A Biographical Directory of the Indiana General Assembly* (2 vols., Indianapolis, 1980, 1984).

Table 5: Freshman Legislators in Each Session, continued

Session	Freshman Senators	Freshman Representatives	Session	Freshman Senators	Freshman Representatives
1913	20	71	1951	14	44
1915	23	67	1953	15	33
1917	24	68	1955	15	40
1919	23	62	1957	9	27
1921	22	56	1959	14	57
1923	19	75	1961	11	49
1925	14	66	1963	14	37
1927	17	58	1965	18	61
1929	16	49	1967	18	50
1931	17	62	1969	21	30
1933	27	60	1971-72	12	31
1935	21	63	1973-74	12	45
1937	16	43	1975-76	7	31
1939	17	45	1977-78	16	19
1941	20	38	1979-80	13	19
1943	20	46	1981-82	10	17
1945	11	36	1983-84	9	23
1947	10	38	1985-86	3	11
1949	19	60			

Table 6: Tenure in the Indiana General Assembly

Years of Service	a. 1816-1851 Senators	a. 1816-1851 Representatives	b. 1851-1899[a] Senators	b. 1851-1899[a] Representatives
1	51 (15.5%)[b]	789 (56.5%)	123 (22.7%)	1,158 (71.7%)
2	42 (12.7)	340 (24.3)	326 (60.1)	317 (19.7)
3	154 (46.7)	136 (9.7)	32 (5.9)	93 (5.8)
4	20 (6.1)	62 (4.4)	33 (6.1)	27 (1.7)
5	11 (3.3)	32 (2.3)	12 (2.2)	12
6	30 (9.1)	22 (1.6)	12 (2.2)	5
7	5 (1.5)	9	2	1
8	4 (1.2)	3	2	2
9	5 (1.5)	4	-	1
10	2	-	-	-
11	1	-	-	-
12	3	-	-	-
13	2	-	-	-

Years of Service	c. 1891-1929[a] Senators	c. 1891-1929[a] Representatives	d. 1931-1969 Senators	d. 1931-1969 Representatives
1	34 (6.9%)	875 (61.2%)	32 (8.8%)	463 (47.4%)
2	365 (74.7)	407 (28.4)	180 (49.9)	219 (22.4)
3	8 (1.6)	93 (6.5)	15 (4.1)	123 (12.6)
4	57 (11.6)	30 (2.0)	78 (21.6)	72 (7.4)
5	2	7	7 (1.9)	39 (4.0)
6	13 (2.6)	10	33 (9.1)	37 (3.8)
7	1	5	4 (1.1)	16 (1.6)
8	2	1	9 (2.5)	12 (1.2)
9	2	-	6 (1.7)	6
10	2	-	9 (2.5)	3
11	-	-	-	1
12	-	-	3	-
13[c]	-	1	-	3
14	-	-	1	-
18[d]	-	1	-	1

[a]Due to data processing complications, there is a chronological overlap between parts (b) and (c) of this table; both parts include data for the legislators who served during the 1890s.

[b]Percentages less than 1.0% are not reported.

[c]James M. Knapp represented Wayne County for six sessions (1919-29) during the era from 1891 to 1929, and for seven sessions between 1931 and 1945.

[d]Glenn R. Slenker (White County) served one term in the Senate at the 1929 and 1931 sessions. He went on to serve eighteen consecutive sessions in the House from 1935 to 1969, the longest tenure in the history of the Indiana General Assembly.

Table 6: Tenure in the Indiana General Assembly, continued

Terms of Service[e]	e. 1971-1984 Senators	Representatives
1	13 (10.5%)	71 (27.5%)
2	39 (31.5)	55 (21.3)
3	13 (10.5)	40 (15.5)
4	28 (22.6)	34 (13.2)
5	3 (2.4)	30 (11.6)
6	14 (11.3)	24 (9.3)
7	5 (4.0)	12 (4.7)
8	5 (4.0)	6 (2.3)
9	4 (3.2)	4 (1.6)
10	1	2
11	-	1
12	1	-
13	-	1

[e]Beginning in 1971 a "term of service" entailed attendance at two consecutive annual sessions.

Table 7: Occupations of Legislators[a]

Occupation	Served 1816-1851	Served 1851-1889	Served 1891-1929	Served 1931-1969	Served 1971-1984
Accountant	—	—	9	11	1
Advertising	—	—	—	6	5 (1.4%)
Artisan/Mechanic	142 (9.4%)[b]	96 (4.9%)	18 (1.0%)	8	2
Artist/Novelist	—	—	2	—	—
Auctioneer	—	—	—	2	2
Automotive services	—	—	2	15 (1.2%)	2
Banker/Financier	43 (2.8)	112 (5.7)	49 (2.7)	24 (1.9)	7 (1.9)
Builder/Contractor	21 (1.4)	20 (1.1)	21 (1.2)	12	5 (1.4)
Businessman[c]	—	115 (5.8)	47 (2.6)	70 (5.6)	26 (7.2)
Clergyman	60 (4.0)	82 (4.1)	18 (1.0)	7	4
Communications	—	—	—	4	3
Computer Industry	—	—	—	—	2
Construction	—	—	2	—	—
Consultant	—	—	—	2	5 (1.4)
Druggist	14	25 (1.3)	12	11	4
Engineer	12	10	10	15 (1.2)	2
Entertainer	—	—	4	5	—
Factory worker	—	—	14	54 (4.3)	19 (5.3)
Farmer	810 (53.5)	802 (40.8)	449 (25.3)	228 (18.1)	30 (8.3)
Ferryman	13	5	—	—	—
Govt. employee (local)	—	—	4	10	9 (2.5)
Govt. employee (state)	—	—	—	2	1
Health Professional	—	—	—	—	2
Homemaker	—	—	8	17 (1.4)	7 (1.9)
Hotelkeeper	21 (1.4)	14	4	8	1
Insurance	—	13	27 (1.4)	62 (4.9)	18 (5.0)
Lawyer	337 (22.3)	629 (32.0)	533 (29.7)	301 (23.9)	73 (20.0)
Lumber industry	10	30 (1.6)	19 (1.0)	4	1
Manager (salaried)	—	—	3	11	6 (1.7)
Manufacturer	19 (1.3)	45 (2.3)	40 (2.2)	13 (1.0)	1

[a]Occupation was divided into primary and secondary categories. Primary occupation indicates the principal means of support at the time of election. Secondary occupation indicates the next major means of support at the time of election for those legislators known to have more than one source of income. Since many lawmakers had more than one means of support, the total number of occupations given in a column is greater than the number of legislators (N). Likewise, the percentages in a given column may total more than 100%.

[b]Percentages less than 1.0% are not reported.

[c]"Businessman" includes entrepreneurial types whose livelihood came from investments, corporate activities, and real estate holdings.

Table 7: Occupations of Legislators, continued

Occupation	Served 1816-1851	Served 1851-1889	Served 1891-1929	Served 1931-1969	Served 1971-1984
Merchant/Storekeeper	315 (20.8)	229 (11.6)	127 (7.1)	69 (5.5)	20 (5.6)
Miller	72 (4.8)	45 (2.3)	5	2	—
Mining/Oil	1	7	13	6	—
Mortician	—	—	6	12	4
Musician	—	—	—	1	—
Newspaperman/Editor	41 (2.7)	96 (4.9)	55 (3.0)	21 (1.7)	2
Nurseryman/Forester	5	13	—	3	—
Physician/Dentist	145 (9.6)	196 (10.0)	89 (5.1)	27 (2.1)	7 (1.9)
Politician	—	—	—	2	4
Printer	14	7	7	9	—
Produce (wholesale)	24 (1.6)	15	—	—	—
Professor (college)	—	—	9	9	4
Public safety	—	—	—	3	6 (1.7)
Publisher	13	8	4	4	—
Railroad management	24 (1.6)	41 (2.1)	4	—	—
Railroad worker	—	2	23 (1.2)	21 (1.7)	4
Realtor	17 (1.1)	59 (3.0)	43 (2.5)	33 (2.6)	12 (3.3)
Salesman	—	7	23 (1.2)	34 (2.7)	5 (1.4)
Science/Math Technician	—	—	—	—	4
Secretary/Clerical	—	—	2	4	4
Social Worker	—	—	—	7	2
Stockbroker	—	—	—	4	2
Student	—	—	5	5	1
Tailor	7	2	—	—	—
Tavern Keeper	30 (2.0)	4	—	—	—
Teacher	43 (2.8)	68 (3.5)	42 (2.4)	37 (2.9)	37 (10.3)
Trader	27 (1.8)	10	—	—	—
Union/Labor Official	—	—	—	—	1
Veterinarian	—	—	2	5	1
Wholesaler	—	—	4	—	—
Other	27 (1.8)	48 (2.5)	27 (1.4)	32 (2.5)	2
Unknown	20 (1.3)	7	1	1	—
N	1,513	1,966	1,786	1,258	360

Table 8: Military Service of Legislators

a. Legislative Service 1816-1851

	HOUSE	SENATE		TOTAL GROUP
Militia Service	374 (27%)	104	(31%)	400 (26%)
No Active Service	*1,115 (79)*	*245*	*(73)*	*1,204 (79)*
Active Service	*293 (21)*	*90*	*(27)*	*322 (21)*
Revolutionary War	4	1		5
War of 1812	127 (9)	43	(13)	137 (9)
Black Hawk/Indian Wars	27 (2)	6	(2)	29 (2)
Mexican War	54 (4)	16	(5)	60 (4)
Civil War	81 (6)	24	(7)	91 (6)
N	*1,408*	*335*		*1,526*

b. Legislative Service 1851-1889

	HOUSE	SENATE		TOTAL GROUP
Militia Service	88 (6%)	42	(8%)	115 (6%)
No Active Service	*1,144 (72)*	*364*	*(69)*	*1,417 (72)*
Active Service[a]	*437 (28)*	*163*	*(31)*	*549 (28)*
Revolutionary War	1	1		2
War of 1812	5	6	(1)	9
Black Hawk/Indian Wars	2	3		4
Mexican War	46 (3)	13	(2)	54 (2.7)
Civil War	406 (25)	145	(27.5)	506 (25)
Spanish-American War	4	—		4
N	*1,581*	*527*		*1,966*

[a]Several legislators served in both the Mexican War and the Civil War: 27 of the House members with active service, 5 of the Senate members, and 30 of the total group of legislators with active military service.

Table 8: Military Service of Legislators, continued

c. Legislative Service 1891-1929

	HOUSE	SENATE	TOTAL GROUP
National Guard/Reserve	27 (2%)	16 (3.4%)	42 (2.4%)
No Active Service	*1,196 (86)*	*378 (81.5)*	*1,502 (84.5)*
Active Service[b]	*197 (14)*	*86 (18.5)*	*275 (15.5)*
Peacetime	1	1	2
Mexican War	—	1	1
Civil War	117 (8.4)	46 (9.9)	161 (9)
Spanish-American War	16 (1)	17 (3.7)	29 (1.6)
World War I	61 (4.4)	20 (4.3)	79 (4.4)
World War II	2	1	3
N	*1,393*	*464*	*1,777*

[b]Several legislators served in more than one conflict: 8 House members, 1 member of the Senate, and 9 of the total group.

d. Legislative Service 1931-1969

	HOUSE	SENATE	TOTAL GROUP
National Guard/Reserve	84 (9%)	37 (10%)	114 (9%)
No Active Service	*605 (63)*	*215 (60)*	*774 (62.4)*
Active Service[c]	*356 (37)*	*142 (40)*	*466 (37.6)*
Peacetime	30 (3.1)	14 (3.9)	40 (3.2)
Spanish-American War	5	1	6
World War I	95 (9.9)	47 (13.2)	134 (10.8)
World War II	204 (21.2)	72 (20.2)	256 (20.6)
Korean War	22 (2.3)	7 (2.0)	29 (2.3)
Vietnamese War	—	1	1
N	*961*	*357*	*1,240*

[c]Several legislators served in more than one conflict: 15 House members, 4 Senate members, and 18 of the total group of legislators.

Table 8: Military Service of Legislators, continued

e. Legislative Service 1971-1986

	HOUSE	SENATE		TOTAL GROUP
National Guard/Reserve	37 (14%)	16	(13%)	49 (13%)
No Active Service	*163 (61)*	*64*	*(52)*	*214 (57)*
Active Service	*106 (39)*	*60*	*(48)*	*160 (43)*
Peacetime	25 (9)	13	(10.5)	36 (10)
World War I	1	—		1
World War II	51 (19)	27	(22)	76 (20)
Korean War	21 (8)	13	(10.5)	28 (7.5)
Vietnamese War	9 (3)	5	(4)	13 (3.5)
N	*269*	*124*		*374*

Table 9: College Attendance by Legislators[a]

	House	Senate	Total
1851-1889	458 (29%)	187 (36%)	600 (31%)
1851-1859	77 (17)	31 (18)	105 (18)
1861-1869	108 (25)	55 (35)	152 (27)
1871-1879	138 (31)	60 (40)	189 (33)
1881-1889	168 (42)	81 (54)	141 (45)
1891-1929	766 (55)	319 (69)	1,033 (58)
1891-1899	193 (47)	89 (59)	278 (50)
1901-1909	226 (58)	107 (74)	322 (61)
1911-1919	215 (56)	97 (69)	303 (59)
1921-1929	228 (64)	95 (79)	314 (67)
1931-1969	700 (71)	303 (84)	933 (74)
1931-1939	211 (66)	101 (77)	303 (69)
1941-1949	201 (69)	93 (86)	279 (72)
1951-1959	195 (73)	98 (92)	281 (78)
1961-1969	230 (82)	109 (88)	323 (83)
1971-1984	219 (85)	112 (90)	310 (86)

[a]Indicates numbers and percentages of legislators who attended (but did not necessarily graduate from) an institution of higher learning.

Table 10: Attendance by Legislators at State-Supported Institutions of Higher Education[a]

	Served 1851-1889	Served 1891-1929	Served 1931-1969	Served 1971-1984
Ball State University	—	4 (0.3%)	23 (2.5%)	15 (4.8%)
Indiana State University	—	52 (5.0)	45 (4.8)	15 (4.8)
Indiana University	91 (15%)	125 (12)	189 (20)	95 (31)
Purdue University	—	40 (3.8)	93 (10)	42 (13.5)
Vincennes University	—	6 (0.6)	3 (0.3)	2 (0.6)

[a]The percentages given are not of *all* legislators, but rather of legislators who attended an institution of higher learning. The institutional names given are those currently in use.

Table 11: Other Political Offices Held By Legislators

a. 1816-1851

Position	Total	Before Service	At any other time	At unknown time	Never
Local Office	968 (64%)[a]	689 (45%)	177 (12%)	102 (7%)	545 (36%)
District Judicial	112 (7)	27 (2)	83 (5)	2	1,401 (93)
State Administrative	168 (11)	23 (2)	134 (9)	11	1,345 (89)
State Judicial	16 (1)	—	16 (1)	—	1,497 (99)
State Legislative (non-member)	31 (2)	15	9	7	1,482 (98)
Federal (on state level)	145 (10)	18 (2)	120 (8)	7	1,368 (90)
Federal Judge	5	—	5	—	1,508 (99)
Cabinet Member	3	—	3	—	1,510 (99)
Federal (national level or foreign duty)	29 (2)	3	25 (2)	1	1,484 (98)
Governor of another state or territory	4	1	3	—	1,509 (99)
U.S. Senate (Indiana)	14 (1)	1	13 (1)	—	1,499 (99)
U.S. Congress (from other states)	8	1	7	—	1,505 (99)
Legislator (other state)	49 (3)	12 (1)	37 (2)	—	1,464 (97)
Indiana Territorial Legislator	18 (1)	18 (1)	—	—	1,495 (99)
Presidential Elector	69 (5)	6	62 (4)	1	1,444 (95)
Minor Public Position (in other state)	85 (6)	26 (2)	53 (4)	6	1,428 (94)

[a]Percentages less than 1.0% are not reported

Table 11: Other Political Offices Held By Legislators, continued

b. 1851-1889

Position	Total	Before Service	At any other time	At unknown time	Never
Local Office	1,133 (58%)[a]	792 (40%)	190 (10%)	151 (8%)	833 (42%)
District Judicial	238 (12)	131 (7)	101 (5)	6	1,728 (88)
State Administrative	207 (10)	42 (2)	141 (7)	24 (1)	1,759 (90)
State Judicial	22 (1)	1	21 (1)	—	1,944 (99)
State Legislative (non-member)	44 (2)	21 (1)	18 (1)	5	1,922 (98)
Federal (on state level)	167 (9)	55 (3)	97 (5)	15	1,799 (92)
Federal Judge	12	2	10	—	1,954 (99)
Cabinet Member	2	—	2	—	1,964 (99)
Federal (national level or foreign duty)	47 (2)	2	43 (2)	2	1,919 (98)
Governor of another state or territory	5	—	5	—	1,961 (99)
U.S. Senate (Indiana)	2	—	2	—	1,964 (99)
U.S. House (Indiana)	58 (3)	5	53 (3)	—	1,908 (97)
U.S. Congress (from other states)	10	—	10	—	1,956 (99)
Legialstor (other state)	19 (1)	7	12	—	1,947 (99)
Presidential Elector	58 (3)	17 (1)	41 (2)	—	1,908 (97)
Minor Public Position (in other state)	85 (4)	38 (2)	45 (2)	1	1,882 (96)

[a]Percentages less than 1.0% are not reported

Table 11: Other Political Offices Held By Legislators, continued

c. 1891-1929

Position	Total	Before Service	At any other time	At unknown time	Never
Local Office	1,064 (59%)[a]	772 (43%)	222 (12%)	70 (4%)	722 (41%)
District Judicial	196 (11)	120 (7)	74 (4)	2	1,591 (89)
State Administrative	289 (16)	68 (4)	211 (12)	10	1,497 (84)
State Judicial	5	—	5	—	1,781 (99)
State Legislative (non-member)	57 (3)	31 (2)	26 (1)	—	1,729 (97)
Federal (on state level)	155 (9)	64 (4)	81 (5)	10	1,630 (91)
Federal Judge	6	—	6	—	1,780 (99)
Cabinet Member	1	—	1	—	1,785 (99)
Federal (national level or foreign duty)	35 (2)	5	30 (2)	—	1,751 (98)
U.S. Senate (Indiana)	6	—	6	—	1,780 (99)
U.S. House (Indiana)	18 (1)	1	17 (1)	—	1,768 (99)
U.S. Congress (from other states)	1	—	1	—	1,785 (99)
Legislator (other state)	1	—	1	—	1,785 (99)
Presidential Elector	21 (1)	12	9	—	1,765 (99)
Local Party Position	336 (19)	226 (13)	75 (4)	35 (2)	1,449 (81)
State Party Position	191 (11)	84 (5)	73 (4)	34 (2)	1,594 (89)
National Party Position	16	4	11	1	1,770 (99)
National Conv. Delegate	77 (4)	26 (1)	52 (3)[b]	—	1,709 (96)

[a]Percentages less than 1.0% are not reported

[b]William Easton English was a national convention delegate three times between his first and second terms of legislative service.

Table 11: Other Political Offices Held By Legislators, continued

d. 1931-1969

Position	Total	Before Service	At any other time	At unknown time	Never
Local Office	724 (58%)[a]	531 (42%)	163 (13%)	30 (3%)	534 (42%)
District Judicial	126 (10)	88 (7)	36 (3)	2	1,132 (90)
State Administrative	435 (35)	103 (8)	317 (25)	15 (1)	823 (65)
State Judicial	13 (1)	1	12	—	1,245 (99)
State Legislative (non-member)	76 (6)	28 (2)	48 (4)	—	1,182 (94)
Federal (on state level)	135 (11)	62 (5)	70 (6)	3	1,123 (89)
Federal Judge	2	—	2	—	1,256 (99)
Cabinet Member	1	—	1	—	1,257 (99)
Federal (national level or foreign duty)	17 (1)	2	15 (1)	—	1,241 (99)
U.S. Senate (Indiana)	2	—	2	—	1,256 (99)
U.S. House (Indiana)	13 (1)	1	12 (1)	—	1,245 (99)
Presidential Elector	4	—	4	—	1,254 (99)
Local Party Position	480 (38)	395 (31)	56 (5)	29 (2)	778 (62)
State Party Position	196 (16)	109 (9)	60 (5)	27 (2)	1,062 (84)
National Party Position	23 (2)	8	13 (1)	2	1,235 (98)
National Conv. Delegate	38 (3)	10	28 (2)	—	1,220 (97)

[a]Percentages less than 1.0% are not reported

Table 11: Other Political Offices Held By Legislators, continued

e. 1971-1984

Position	Total	Before Service	At any other time	At unknown time	Never
Local Office	178 (49%)[a]	154 (43%)	19 (5%)	5 (1%)	182 (51%)
District Judicial	18 (5)	17 (5)	1	—	342 (95)
State Administrative	108 (30)	49 (14)	58 (16)	1	252 (70)
State Judicial	—	—	—	—	360 (100)
State Legislative (non-member)	22 (6)	16 (4)	6 (2)	—	338 (94)
Federal (on state level)	23 (6)	18 (5)	4 (1)	1	337 (94)
Federal Judge	2	—	2	—	358 (99)
Cabinet Member	—	—	—	—	360 (100)
Federal (national level or foreign duty)	2	—	2	—	358 (99)
U.S. Senate (Indiana)	—	—	—	—	360 (100)
U.S. House (Indiana)	5 (1)	1	4 (1)	—	355 (99)
U.S. Congress (from other states)	—	—	—	—	360 (100)
Legislator (other state)	—	—	—	—	360 (100)
Presidential Elector	1	—	1	—	359 (100)
Local Party Position	199 (55)	179 (50)	12 (3)	8 (2)	161 (45)
State Party Position	111 (31)	79 (22)	21 (6)	11 (3)	249 (69)
National Party Position	13 (4)	7 (2)	4 (1)	2	347 (96)
National Conv. Delegate	19 (5)	9 (2.5)	10 (2.5)	—	341 (95)

[a]Percentages less than 1.0% are not reported

Table 12: Party Control of Senate and House by Session*

Session	Majority Party Senate	Majority Party House	Session	Majority Party Senate	Majority Party House
1826-27	AJ	AJ	1851-52	D	D
1827-28	AJ	AJ	1853	D	D
1828-29	AJ	Unk	1855	D	F
1829-30	AJ	Unk	1857	R	D
1830-31	AJ	AJ	1859[a]	R	R
1831-32	AJ	Unk	1861	R	R
1832-33	AJ	J	1863	D	D
1833-34	Unk	J	1865	R[b]	R
1834-35	W	Unk	1867	R	R
1835-36	W	W	1869	R	R
1836-37	W	W	1871	D	D
1837-38	W	W	1873	R	R
1838-39	W	W	1875	D[c]	D
1839-40	W	D	1877	D[c]	R
1840-41	W	W	1879	D[c]	D
1841-42	W	D	1881	T[d]	R
1842-43	W	D	1883	D	D
1843-44	D	D	1885	R	D
1844-45	T	W	1887	D	R
1845-46	T	D	1889	D	D
1846-47	D	W	1891	D	D
1847-48	T	W	1893	D	D
1848-49	D	D	1895	R	R
1849-50	D	D	1897	R	R
1850-51	D	D	1899	R	R

AJ = Anti-Jackson J = Pro-Jackson W = Whig D = Democrat R = Republican
F = Fusionist T = Tie

Unk = Unknown. Results from the fact that the party affiliations of several legislators—enough to decide the majority—cannot be determined.

*For detailed information on party control, including the party affiliation (when known) of each legislator, see the session lists and accompanying notes in *A Biographical Directory of the Indiana General Assembly* (2 vols., Indianapolis, 1980, 1984).

[a]Though in the minority, Republicans organized both houses in 1859 as a result of Know Nothing support and the votes of Democrats opposed to admitting Kansas as a slave state.

[b]Democrat Paris C. Dunning switched to the Republican party in 1865. Democrat Alexander C. Downey voted with the Republicans in support of Dunning as president *pro tempore*, thus enabling the Republicans to organize the Senate.

[c]Democrats organized the Senate in 1875, 1877, and 1879 with the support of Independents.

[d]Neither party could organize the Senate in 1881 because the one Independent member voted with the twenty-four Republicans, thus creating a 25-25 tie.

Table 12: Party Control of Senate and House by Session, continued

Session	Majority Party Senate	Majority Party House	Session	Majority Party Senate	Majority Party House
1901	R	R	1951	R	R
1903	R	R	1953	R	R
1905	R	R	1955	R	R
1907	R	R	1957	R	R
1909	R	D	1959	R	D
1911	D	D	1961	D	R
1913	D	D	1963	R	R
1915	D	D	1965	D	D
1917	R	R	1967	D	R
1919	R	R	1969	R	R
1921	R	R	1971	R	R
1923	R	R	1972	R	R
1925	R	R	1973	R	R
1927	R	R	1974	R	R
1929	R	R	1975	R	D
1931	R	D	1976	R	D
1933	D	D	1977	D	R
1935	D	D	1978	D	R
1937	D	D	1979	R	R
1939	D	R	1980	R	R
1941	R	R	1981	R	R
1943	R	R	1982	R	R
1945	R	R	1983	R	R
1947	R	R	1984	R	R
1949	R	D			

Table 13: Religious Affiliations of Legislators

Religion	Served 1816-1851	Served 1851-1889	Served 1891-1929	Served 1931-1969	Served 1971-1984
Baptist	111 (7.3%)[a]	110 (5.6%)	113 (6.4%)	76 (6.0%)	27 (7.5%)
Brethren[b]	1	3	7	10	3
Christian Science	—	—	6	10	2
Congregationalist	10	14	17	12	—
Disciples of Christ[c]	97 (6.4)	173 (8.8)	193 (10.9)	142 (11.3)	36 (10)
Episcopalian	37 (2.4)	39 (2.0)	33 (1.9)	45 (3.6)	6 (1.7)
German Reformed[d]	1	—	15	16 (1.3)	—
Jewish	—	3	8	10	2
Latter-day Saints (Mormon)	—	2	—	—	1
Lutheran	4	23 (1.2)	57 (3.2)	56 (4.5)	16 (4.4)
Methodist	266 (17.6)	312 (15.8)	419 (23.4)	334 (26.6)	104 (29)
Pentecostal	—	—	—	—	5 (1.4)
Presbyterian	191 (12.6)	243 (12.4)	202 (11.3)	171 (13.6)	42 (11.7)
Protestant (unspecified)	—	—	11	20 (1.6)	7 (1.9)
Roman Catholic	9	33 (1.7)	93 (5.2)	177 (14.1)	70 (19.4)
Society of Friends (Quaker)	56 (3.7)	48 (2.4)	54 (3.0)	36 (2.9)	7 (1.9)
Unitarian	5	12	6	5	—
United Brethren[e]	11	22 (1.1)	47 (2.6)	37 (2.9)	3
United Church of Christ	—	—	2	7	5 (1.4)
Universalist	44 (2.9)	56 (2.8)	12	4	—
Not a church member	114 (7.5)	179 (9.3)	129 (7.2)	39 (3.1)	3
Non-believer	1	5	—	—	—
Other	17 (1.1)	29 (1.3)	13	23 (1.8)	17 (4.7)
Unknown	538 (35.6)	660 (34)	349 (19.5)	28 (2.2)	4
N	1,513	1,966	1,786	1,258	360

[a]Percentages less than 1.0% are not reported
[b]Includes German Baptist, Brethren Church, and Dunkers
[c]Includes Campbellite and Christian Church
[d]Includes Evangelical Church and Reformed Church
[e]Includes United Brethren in Christ and Evangelical Association

Table 14: Freemasons in the Indiana General Assembly

	HOUSE		SENATE		TOTAL LEGISLATURE	
	Not Known to be Members	Known to be Members	Not Known to be Members	Known to be Members	Not Known to be Members	Known to be Members
1851-1890	1180	401 (25%)	383	144 (27%)	1459	507 (26%)
1851-1860	359	88 (20)	132	38 (22)	474	119 (20)
1861-1870	344	87 (20)	120	39 (25)	447	118 (21)
1871-1880	317	126 (28)	116	34 (23)	417	154 (27)
1881-1890	266	135 (34)	92	58 (39)	347	187 (35)
1891-1929	743	658 (47)	200	265 (57)	915	871 (49)
1891-1899	268	147 (35)	94	58 (38)	358	199 (36)
1901-1909	214	178 (45)	66	79 (54)	278	248 (47)
1911-1919	186	197 (51)	53	88 (62)	234	278 (54)
1921-1929	141	218 (61)	30	90 (75)	169	299 (64)
1931-1969	492	484 (50)	171	190 (53)	622	636 (51)
1931-1939	144	175 (55)	55	77 (58)	196	243 (55)
1941-1949	133	160 (55)	46	64 (58)	171	217 (56)
1951-1959	129	138 (52)	52	55 (51)	173	189 (52)
1961-1969	167	115 (41)	65	59 (48)	216	171 (44)
1971-1984	181	77 (30)	79	45 (36)	250	110 (31)

Table 15: Black Legislators in the Indiana General Assembly

ALEXANDER, William L. HOUSE, 1973-74 (MARION). Democrat.
ALLEN, Joseph Chester, Sr. HOUSE, 1939, 1941 (ST. JOSEPH). Democrat.
BASSETT, Richard. HOUSE, 1893 (HOWARD). Republican.
BROKENBURR, Robert Lee. SENATE, 1941, 1943, 1945, 1947, 1953, 1955, 1957, 1959, 1961, 1963 (MARION). Republican.
BROWN, Charlie. HOUSE, 1983-84, 1985-86 (LAKE). Democrat.
CABLE, Theodore. HOUSE, 1939 (MARION). Democrat.
CARSON, Julia M. Porter. HOUSE, 1973-74, 1975-76 (MARION); SENATE, 1977-78, 1979-80, 1981-82, 1983-84, 1985-86 (MARION). Democrat.
CARTER, Zilford C. HOUSE, 1947 (ST. JOSEPH). Republican.
CHAVIS, Patrick E., Jr. SENATE, 1965, 1967 (MARION). Democrat.
CLAY, Rudolph, Sr. SENATE, 1973-74, 1975-76 (LAKE). Democrat.
CONN, Harriette Vesta Bailey. HOUSE, 1967, 1969 (MARION). Republican.
CRAWFORD, William A. HOUSE, 1973-74, 1975-76, 1977-78, 1979-80, 1981-82, 1983-84, 1985-86 (MARION). Democrat.
CROWE, Raymond Province. HOUSE, 1967, 1969, 1971-72, 1973-74, 1975 (MARION). Republican.
DECKER, Charles Edward. HOUSE, 1947 (VANDERBURGH). Republican.
DICKINSON, Jesse Lee. HOUSE, 1943, 1945, 1951, 1953, 1955, 1957 (ST. JOSEPH); SENATE, 1959, 1961 (ST. JOSEPH). Democrat.
DICKINSON, Valjean Leon. HOUSE, 1965 (ST. JOSEPH). Democrat.
EDWARDS, Choice. HOUSE, 1969 (MARION). Republican.
FISHER, Rayfield. HOUSE, 1977-78, 1979-80, 1981-82 (LAKE). Democrat.
FREELAND, Robert Lenward, Jr. HOUSE, 1973-74 (LAKE). Democrat.
GOODALL, Hurley Charles. HOUSE, 1979-80, 1981-82, 1983-84, 1985-86 (DELAWARE). Democrat.
GRANT, Wilbur Homer. HOUSE, 1943, 1945, 1947 (MARION). Republican.
HALL, Katie Beatrice Greene. HOUSE, 1975-76 (LAKE); SENATE, 1977-78, 1979-80, 1981-82 (LAKE). Democrat.
HARRIS, Earl Lynn. HOUSE, 1983-84, 1985-86 (LAKE). Democrat.
HARRIS, Jewell Gene. HOUSE, 1973-74, 1975-76, 1977-78 (LAKE). Democrat.
HINTON, James Sidney. HOUSE, 1881 (MARION). Republican.
HUNTER, James Sherman. HOUSE, 1941, 1943, 1945, 1947, 1949, 1951, 1953, 1955, 1957, 1959, 1961, 1963, 1965 (LAKE). Democrat.
JONES, Gabriel Louis. HOUSE, 1897 (MARION). Republican.
LITTLEJOHN, Forrest Walker. HOUSE, 1949 (MARION). Democrat.
LLOYD, Daisy Riley. HOUSE, 1965 (MARION). Democrat.
MACKEY, William Davis, Sr. HOUSE, 1951, 1953 (MARION). Republican.
MOSBY, Carolyn Allan Brown J. HOUSE, 1979-80, 1981-82 (LAKE); SENATE, 1983-84, 1985-86 (LAKE). Democrat.
RICHARDSON, Henry Johnson, Jr. HOUSE, 1933, 1935 (MARION). Democrat.
ROGERS, Earline Smith. HOUSE, 1983-84, 1985-86 (LAKE). Democrat.
STANTON, Robert L. HOUSE, 1933, 1935 (LAKE). Democrat.

Table 15: Black Legislators in the Indiana General Assembly, continued

SUMMERS, Joseph W. HOUSE, 1977-78, 1979-80, 1981-82, 1983-84, 1985-86 (MARION). Democrat.
TALLEY, Marshall Alexander. HOUSE, 1937 (MARION). Democrat.
TAYLOR, Jules Blake. HOUSE, 1981 (LAKE). Democrat.
TOWNSEND, James Matthew. HOUSE, 1885 (WAYNE). Republican.
WALTON, Charles Atlas. HOUSE, 1965 (MARION). Democrat.
WHITE, Bernard Luther, Jr. HOUSE, 1969, 1971-72 (ST. JOSEPH). Democrat.

Table 16: Women Legislators in the Indiana General Assembly

ACHOR, Helen E. Martin. HOUSE, 1969 (MADISON). Republican.
ALLSTATT, Angeline Patterson. SENATE, 1973-74, 1975-76 (MARION). Democrat.
ATKINS, Katharine Lewis Watson. HOUSE, 1945 (MARION). Republican.
BALZ, Arcada Campbell Stark. SENATE, 1943, 1945, 1947 (Johnson and MARION). Republican.
BARNING, Elsie Christene Seiler. HOUSE, 1949, 1955, 1961, 1963, 1967, 1971-72 (VANDERBURGH). Democrat.
BECKER, Vaneta G. Liley. HOUSE, 1981-82 (VANDERBURGH), 1983-84, 1985-86 (Spencer, VANDERBURGH, and Warrick). Republican.
BLANKENBAKER, Virginia Mabel Murphy Bauerle. SENATE, 1981-82, 1983-84, 1985-86 (MARION). Republican.
BOWSER, Anita Olga Albu. HOUSE, 1979-80 (La PORTE and St. Joseph), 1983-84, 1985-86 (La PORTE and Porter). Democrat.
BRINKMAN, Joyce E. HOUSE, 1985-86 (Hendricks and MARION). Republican.
BROWN, Alice Mathias Sabo. HOUSE, 1955 (LAKE and Porter). Democrat.
BUDAK, Mary Kay McMahon. HOUSE, 1981-82 (La PORTE and St. Joseph), 1983-84, 1985-86 (La PORTE and Porter). Republican.
BURNETT, Martha Louise Yeager. SENATE, 1957, 1959, 1961, 1963 (Johnson and MARION). Republican.
CAESAR, Victoria. HOUSE, 1965, 1967, 1971-72 (LAKE). Democrat.
CARSON, Julia M. Porter. HOUSE, 1973-74, 1975-76 (MARION); SENATE, 1977-78, 1979-80, 1981-82, 1983-84, 1985-86 (MARION). Democrat.
CHURILLA, Mildred Kopack. HOUSE, 1955, 1957, 1959, 1961 (LAKE). Democrat.
CONN, Harriette Vesta Bailey. HOUSE, 1967, 1969 (MARION). Republican.
COONS, Clara Leona Van Cleave. HOUSE, 1941, 1943, 1945, 1947, 1957 (MONTGOMERY). Republican.
CRIMMINS, Janiece Lucille. HOUSE, 1971-72 (Blackford and GRANT), 1973-74 (Delaware, GRANT, and Madison). Republican.
CURRIE, Lucille A. Smith. HOUSE, 1959 (MARION). Democrat.
DAUGHERTY, Elizabeth Hunt. HOUSE, 1925 (WABASH). Republican.
DORBECKER, Doris Lorene Phipps. HOUSE, 1969, 1971-72, 1973-74, 1977-78, 1979-80, 1981-82 (MARION), 1983-84 (Johnson and MARION). Republican.
DOWNEY, Nelle Bowman. HOUSE, 1941, 1943, 1945, 1947, 1951, 1953 (MARION). Republican.
DOWNING, Elizabeth Katherine Williams. HOUSE, 1943 (MARION). Republican.
DUNN, Mabel Alice. HOUSE, 1949 (MARION). Democrat.
ENGLE, Barbara Louise. HOUSE, 1983-84, 1985-86 (ADAMS, Allen, Noble, and Whitley). Republican.
FAY, Wilma Jane Donald. HOUSE, 1967, 1969, 1971-72 (MARION). Republican.
FERGUSON, Lettie McCave. HOUSE, 1929 (ALLEN). Republican.
FIFIELD, Esther Lillian Harper. HOUSE, 1979-80, 1981-82, 1983-84, 1985-86 (LAKE). Republican.

Table 16: Women Legislators in the Indiana General Assembly, continued

FRUITS, Katherine Margaret O'Connell. HOUSE, 1965 (MARION). Democrat.
GARDNER, Dorothy Haberstroh. SENATE, 1947, 1949, 1951, 1953, 1955, 1957 (ALLEN). Republican.
GARDNER, Ella Van Sickle. HOUSE, 1927 (MARION). Republican.
GARRETT, Mary Ann Cornelison. SENATE, 1949, 1951 (MARION). Democrat.
GAYLORD, Ella Frances Henderson. HOUSE, 1967, 1969, 1971-72, 1973-74 (TIPPECANOE). Republican.
GUBBINS, Joan Margaret Barton. SENATE, 1969, 1971-72, 1973-74, 1975-76, 1977-78, 1979-80 (MARION). Republican.
HAGENWALD, Antoinette Colonge. HOUSE, 1925 (VIGO). Republican.
HAINES, Tella Chloe. HOUSE, 1931 (SULLIVAN). Democrat.
HALL, Katie Beatrice Greene. HOUSE, 1975-76 (LAKE); SENATE, 1977-78, 1979-80, 1981-82 (LAKE). Democrat.
HAWTHORNE, Marcia May Moorman. HOUSE, 1961 (MARION). Republican.
HIBNER, Janet Louise Nelson. HOUSE, 1977-78, 1979-80, 1981-82, 1983-84, 1985-86 (WAYNE). Republican.
KAUFMAN, Bess Robbins. HOUSE, 1933, 1937, 1939 (MARION). Democrat.
KIRK, Naomi Joy. HOUSE, 1955, 1957 (FLOYD). Democrat.
KLINKER, Sheila Ann Johnston. HOUSE, 1983-84, 1985-86 (TIPPECANOE). Democrat.
LANDSKE, Dorothy Suzanne. SENATE, 1985-86 (LAKE, Newton, and Porter). Republican.
LAUCK, Marie Theresa. HOUSE, 1959 (MARION); SENATE, 1965, 1967, 1973-74, 1975-76 (MARION). Democrat.
LLOYD, Daisy Riley. HOUSE, 1965 (MARION). Democrat.
LOGAN, Cecilia M. HOUSE, 1965 (MARION). Democrat.
LOWE, Mabel Leota Hoar Smith. HOUSE, 1943 (MARION). Republican.
LYNCH, Irma Stone. HOUSE, 1945 (Posey, VANDERBURGH, and Warrick). Democrat.
MAHONEY, Donnabelle Louise Rentner. HOUSE, 1973-74, 1975-76 (LAKE). Democrat.
MALINKA, Bernadine (Betty). HOUSE, 1943, 1945, 1947, 1951, 1953, 1955 (LAKE). Democrat.
MALONEY, Anna. HOUSE, 1961, 1963, 1965, 1967, 1969, 1971-72 (LAKE). Democrat.
MASON, Clara Adalinda Leitz Harris. HOUSE, 1927 (VIGO). Republican.
MAY, Emma Mary. HOUSE, 1945 (VIGO). Democrat.
MILLER, Patricia Louise Miller. HOUSE, 1983-84 (MARION); SENATE, 1983-84, 1985-86 (Johnson and MARION). Republican.
MISENER, Mary Zeola Hershey. HOUSE, 1929 (La PORTE). Republican.
MOSBY, Carolyn Allan Brown J. HOUSE, 1979-80, 1981-82, 1983-84 (LAKE); SENATE, 1983-84, 1985-86 (LAKE). Democrat.
NELSON, Julia D. Reynolds. HOUSE, 1921 (DELAWARE). Republican.

Table 16: Women Legislators in the Indiana General Assembly, continued

NICHOLSON, Roberta West. HOUSE, 1935 (MARION). Democrat.
NOBLE, Jane Ann. HOUSE, 1949 (HOWARD and Tipton). Democrat.
NORRIS, Fern Elizabeth Duenk. HOUSE, 1951 (MARION). Republican.
PARENT, Lillian May Cox. HOUSE, 1977-78, 1979-80 (HENDRICKS); SENATE, 1979-80, 1981-82 (Boone, HENDRICKS, and Morgan), 1983-84 (Boone, Hamilton, HENDRICKS, Montgomery, and Putnam). Republican.
PETTERSEN, Mary Jean Miller. HOUSE, 1979-80, 1981-82, 1983-84, 1985-86 (LAKE). Democrat.
POND, Phyllis Joan Ruble. HOUSE, 1979-80, 1981-82 (Adams, ALLEN, and Wells), 1983-84, 1985-86 (Adams, ALLEN, Noble, and Whitley). Republican.
RAINEY, Elizabeth. HOUSE, 1923 (MARION). Republican.
RICKETTS, Marvel. HOUSE, 1965 (MARION). Democrat.
ROACH, Grace Elizabeth Brewington. HOUSE, 1949 (RIPLEY and Switzerland). Democrat.
ROGERS, Earline Smith. HOUSE, 1983-84, 1985-86 (LAKE). Democrat.
SCHULTZ, Marilyn Frances. HOUSE, 1973-74, 1975-76, 1977-78, 1979-80, 1981-82 (MONROE and Owen), 1983-84, 1985-86 (MONROE). Democrat.
SEYFRIED, Maryann Crossen. HOUSE, 1975-76 (MARION). Democrat.
SIMPSON, Vi. SENATE, 1985-86 (Brown, Greene, and MONROE). Democrat.
SMELSER, Anna May Padberg. HOUSE, 1953, 1955 (ST. JOSEPH). Democrat.
STOUT, Harriet Cracraft. HOUSE, 1955, 1957 (MARION). Republican.
SULLIVAN, Jessie Jean Keirn. SENATE, 1975-76 (Carroll, Cass, Fulton, and MIAMI). Republican.
Van ARSDALE, Catherine Eva Stackhouse. HOUSE, 1975-76 (MARION). Democrat.
WILSON, Esther Marie Bulza. HOUSE, 1977-78, 1979-80, 1983-84, 1985-86 (Lake and PORTER). Democrat.
WILSON, Ida Roth. HOUSE, 1943, 1947 (Posey, Vanderburgh, and WARRICK). Republican.
WOLF, Katie L. HOUSE, 1985-86 (Benton, Carroll, Newton, Pulaski, and WHITE). Democrat.
WOOFFENDALE, Mattie Lucille McEwen. HOUSE, 1973-74 (Boone, Carroll, CLINTON, Hamilton, and Tippecanoe). Republican.
WORMAN, Marna Jo Neuhouser. HOUSE, 1977-78 (ALLEN). Republican.
WYATT, Margaret Lambert. HOUSE, 1945, 1947 (MARION). Republican.
ZIMMERMAN, Bertha A. Goad. HOUSE, 1929 (VIGO). Republican.

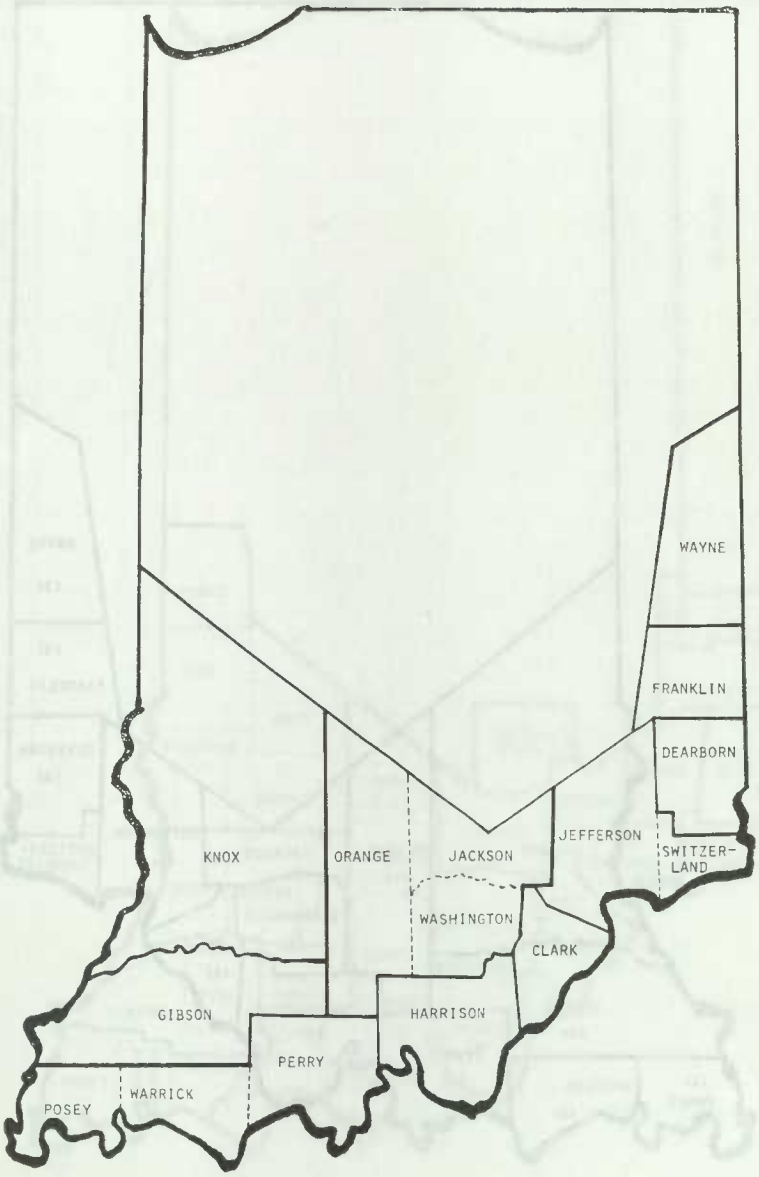
APPENDIX B:
HOUSE AND SENATE APPORTIONMENT MAPS

Researched and prepared by Elizabeth Shanahan

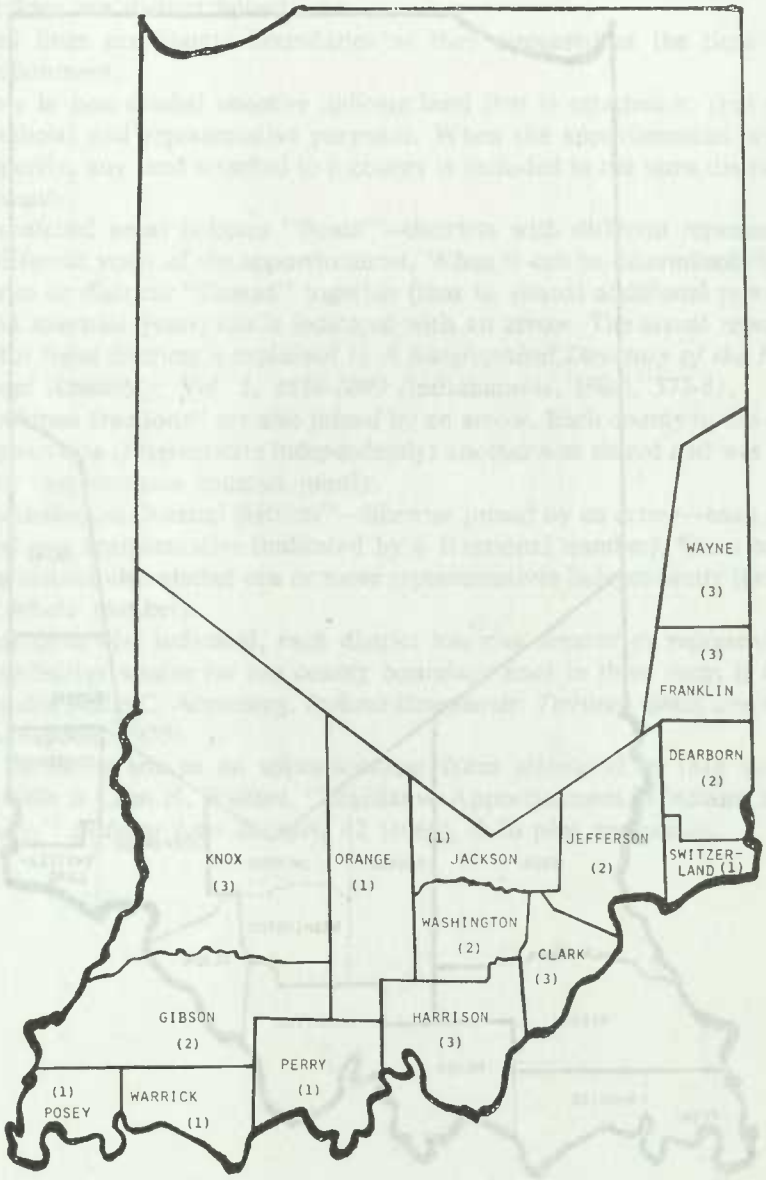
General Notes on House and Senate Apportionment Maps

1. Solid lines are district boundaries.
2. Dotted lines are county boundaries as they appeared at the time of the apportionment.
3. Arrows in non-shaded counties indicate land that is attached to that county for judicial and representative purposes. When the apportionment law does not specify, any land attached to a county is included in the same district with the county.
4. Crosshatched areas indicate "floats"—districts with different representation for different years of the apportionment. When it can be determined that two counties or districts "floated" together (that is, shared additional representation in alternate years) this is indicated with an arrow. The actual representation for these districts is explained in *A Biographical Directory of the Indiana General Assembly*, Vol. 1, *1816-1899* (Indianapolis, 1980), 573-81.
5. "Combined fractions" are also joined by an arrow. Each county in the district was given one representative independently; another was shared and was elected by the two or three counties jointly.
6. In "unbalanced floterial districts"—likewise joined by an arrow—each district shared one representative (indicated by a fractional number). Some counties in the district also elected one or more representatives independently (indicated by a whole number).
7. Unless otherwise indicated, each district has one senator or representative.
8. The definitive source for the county boundary lines in these maps is George Pence and Nellie C. Armstrong, *Indiana Boundaries: Territory, State, and County* (Indianapolis, 1933).
9. The definitive source on apportionment from statehood in 1816 until the mid-1960s is Leon H. Wallace, "Legislative Apportionment in Indiana: A Case History," *Indiana Law Journal*, 42 (1966), 6-76 plus appendices.

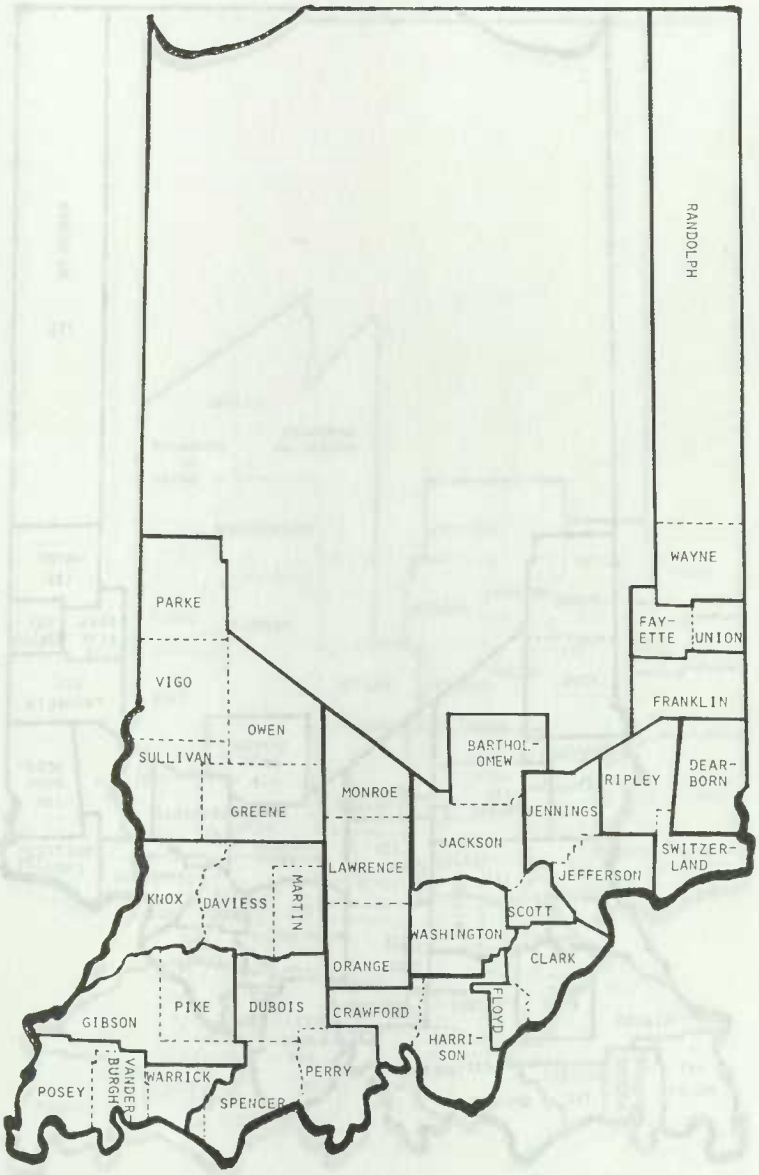
Map 1: Senate Districts 1816



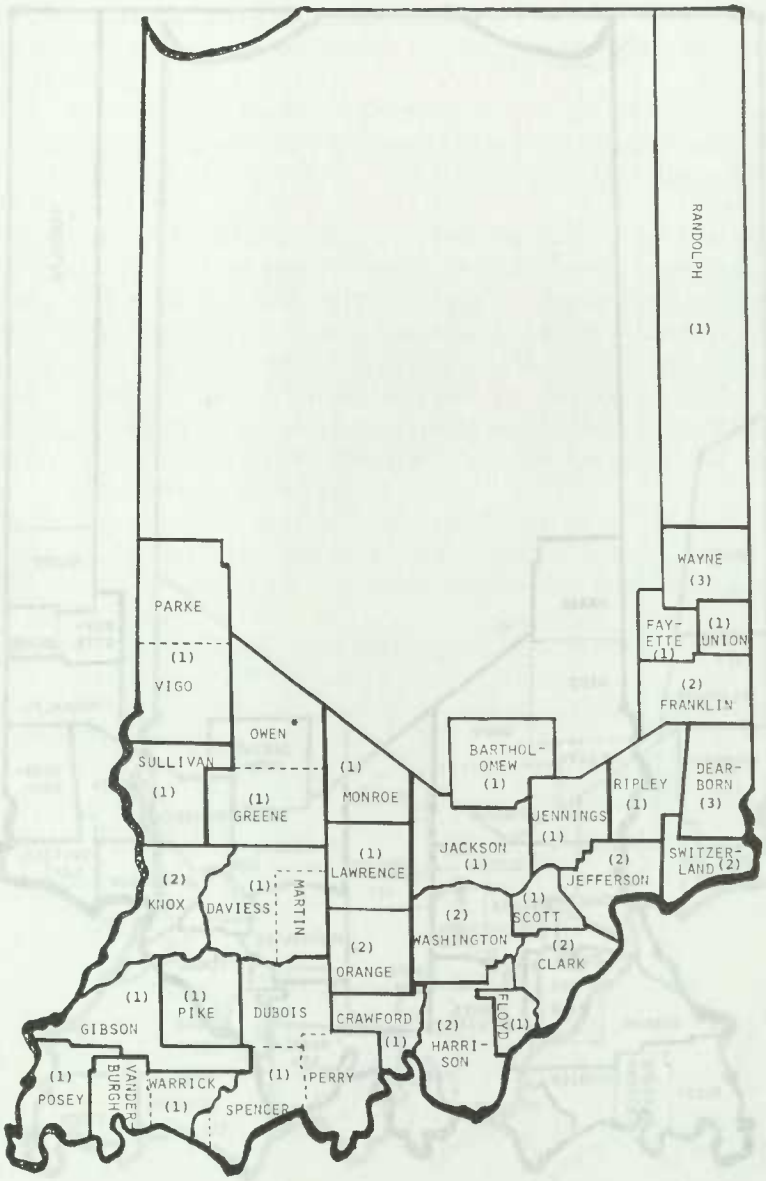
Map 2: House Districts 1816



Map 3: Senate Districts 1821

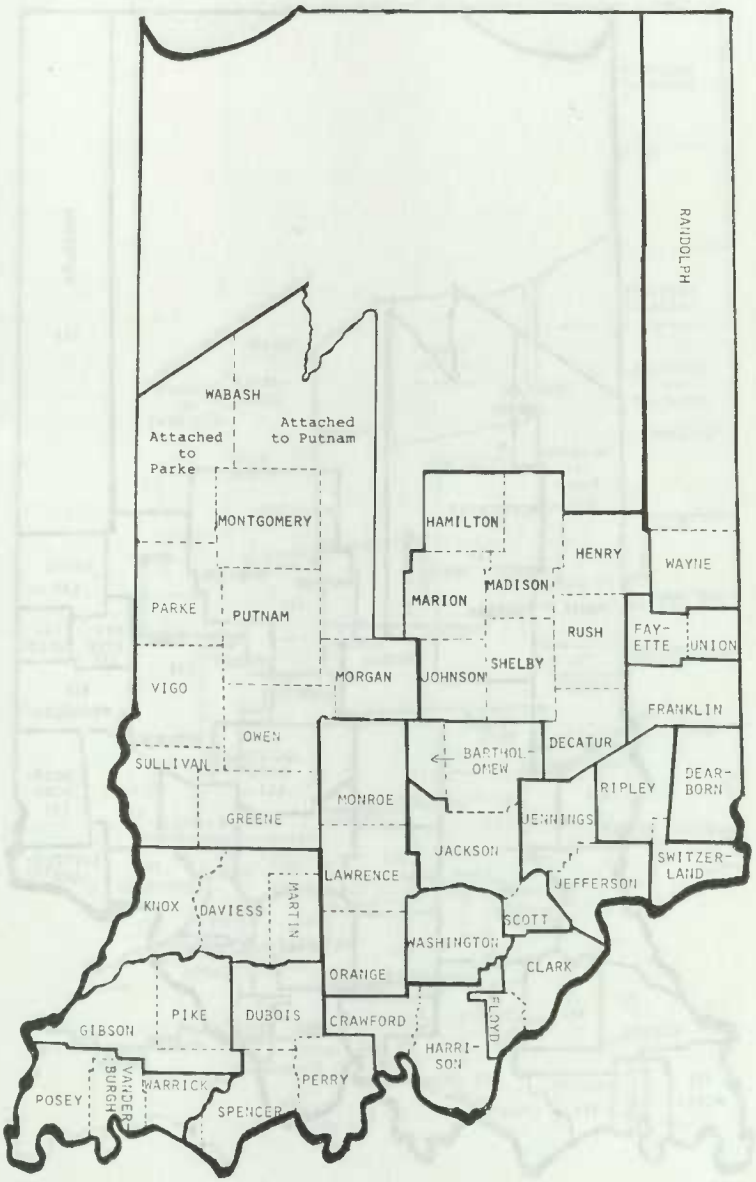


Map 4: House Districts 1821

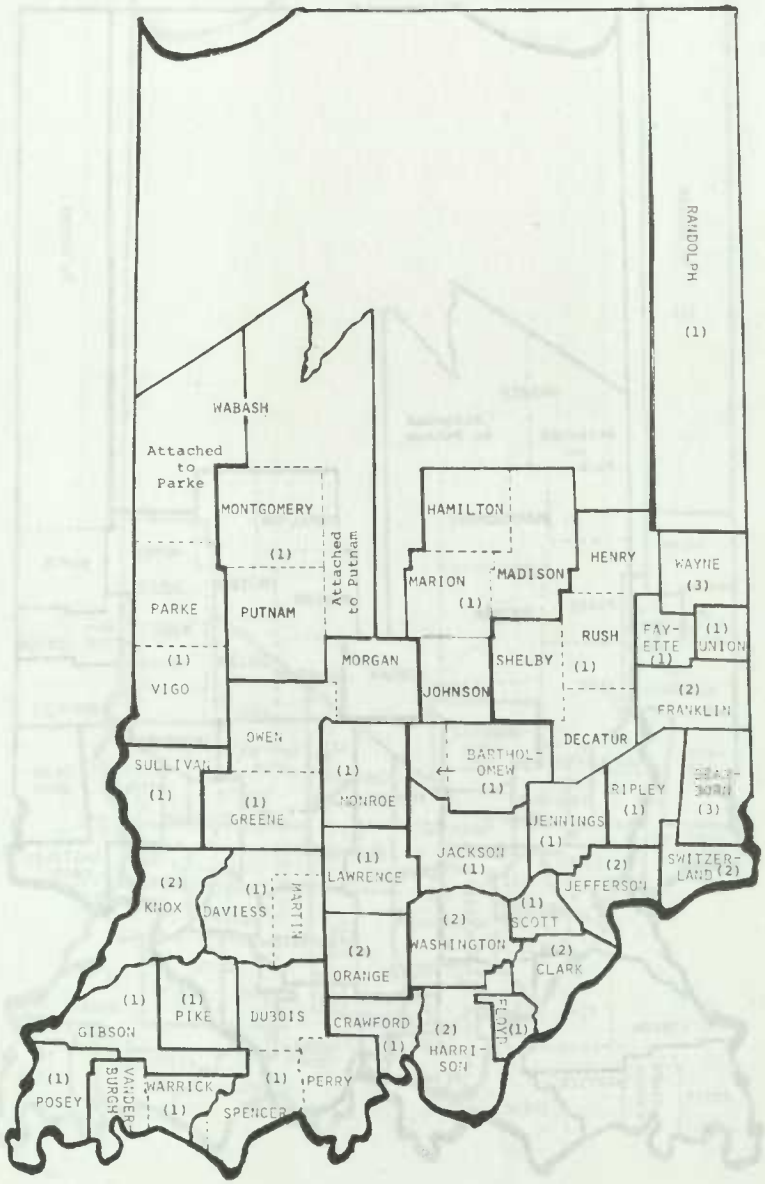


Note: The Apportionment Act of January 2, 1821, included Morgan County in a representative district with Greene and Owen counties. However, no provision was made for Morgan's inclusion in a senatorial district. More important, Morgan County was not finally created by statute until December 31, 1821, with an effective date of February 15, 1822.

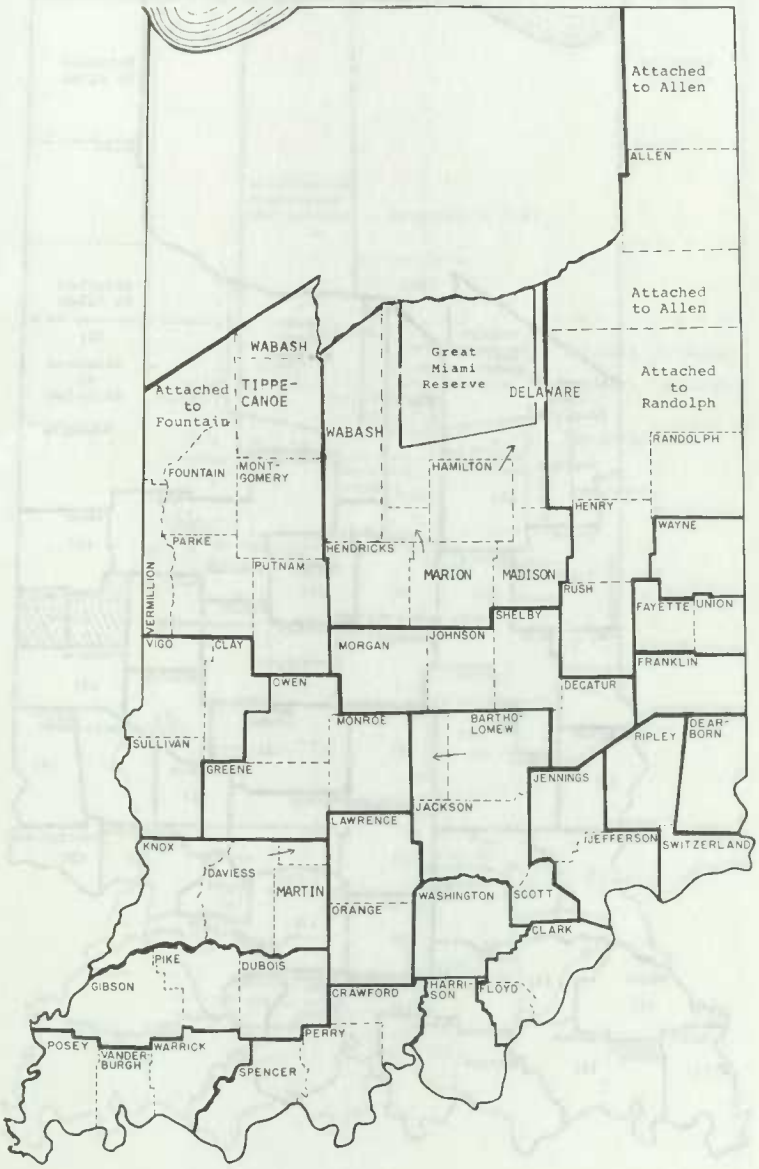
Map 5: Senate Districts 1823



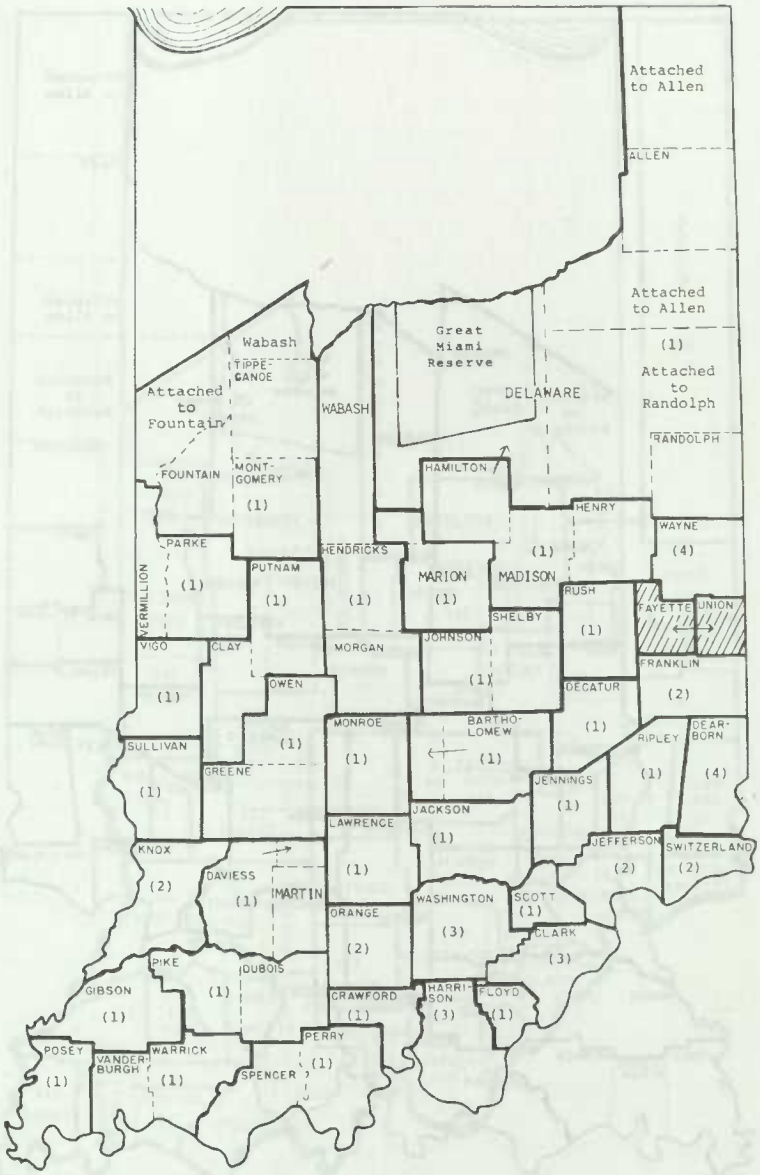
Map 6: House Districts 1823



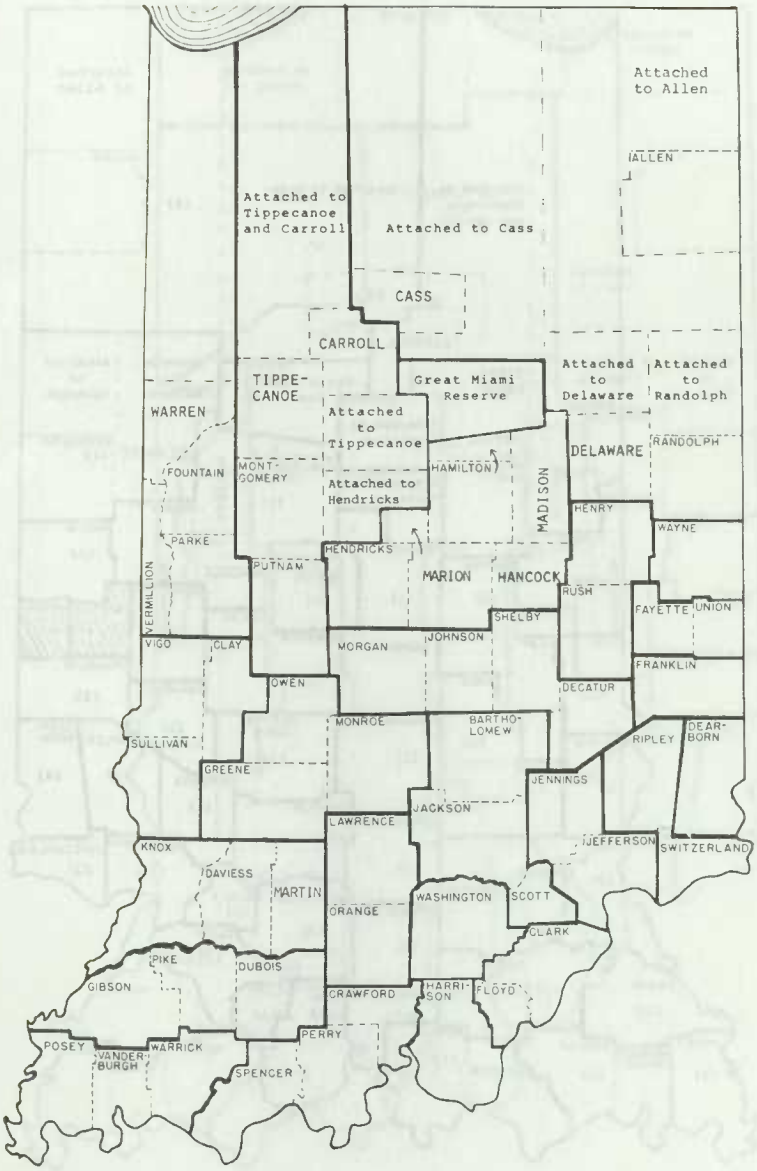
Map 7: Senate Districts 1826



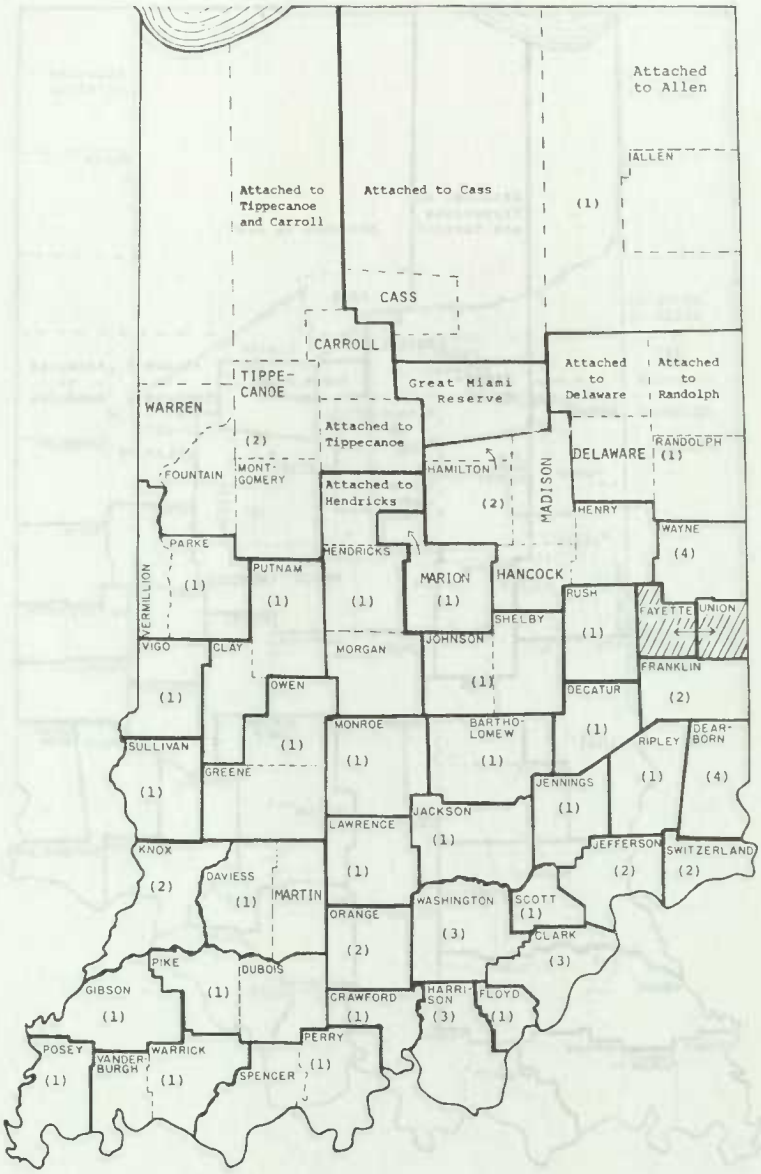
Map 8: House Districts 1826



Map 9: Senate Districts 1829

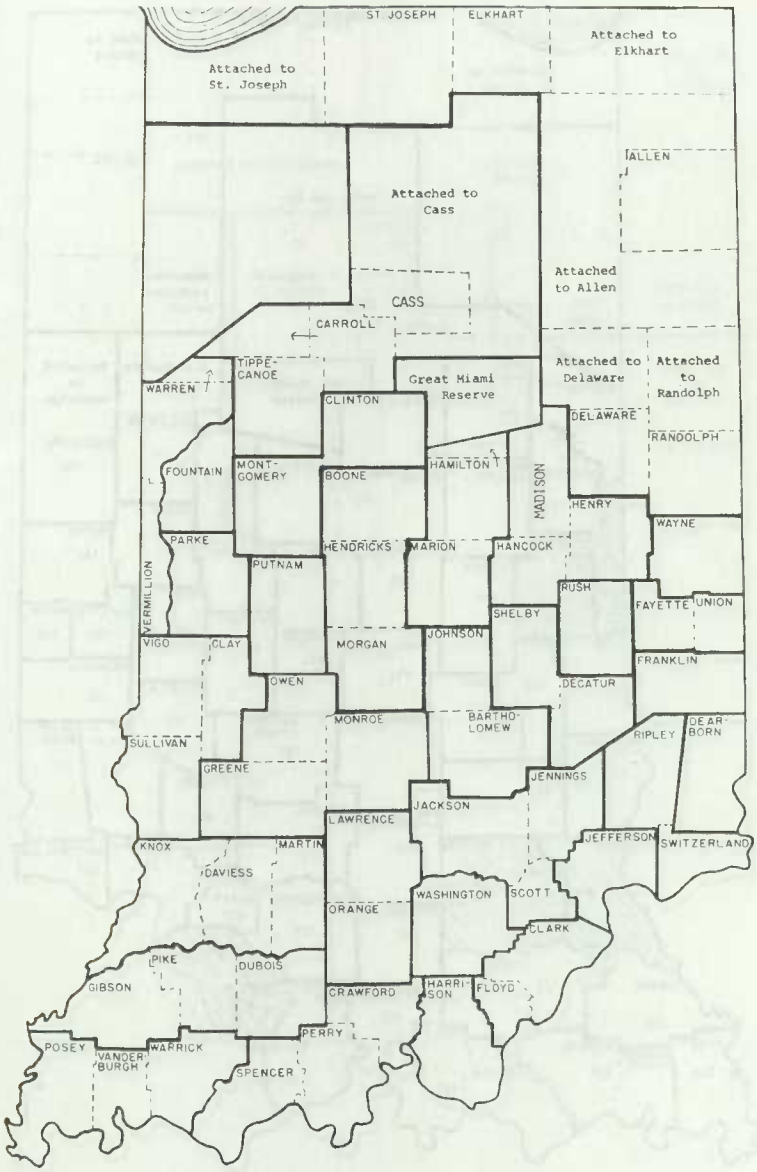


Map 10: House Districts 1829

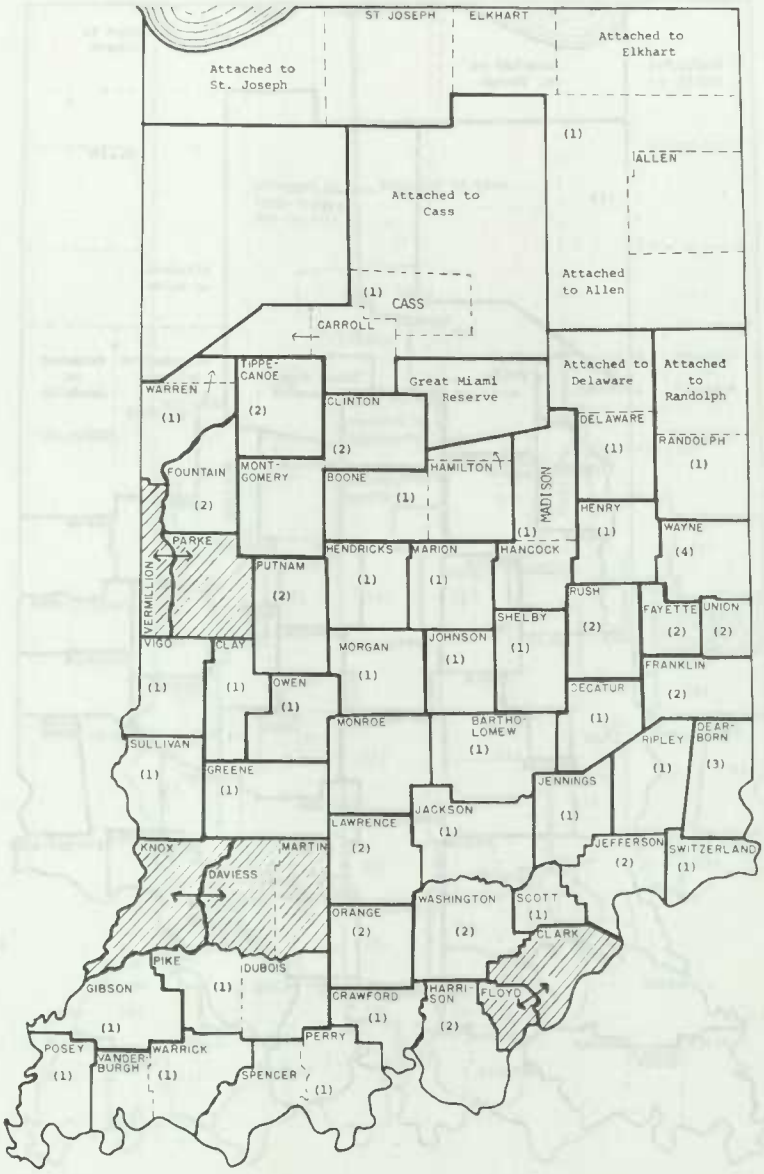


Note: The Interim Apportionment Act of January 9, 1829, provided for two representatives for a House district comprising Hamilton, Hancock, Henry, and Madison counties, and "all the county north of said counties to the state line, not attached to any other county or counties." It is not clear whether this was intended to include the Miami Reserve. The Reserve was not officially opened to white settlement until 1847, but squatters were there in advance of that date.

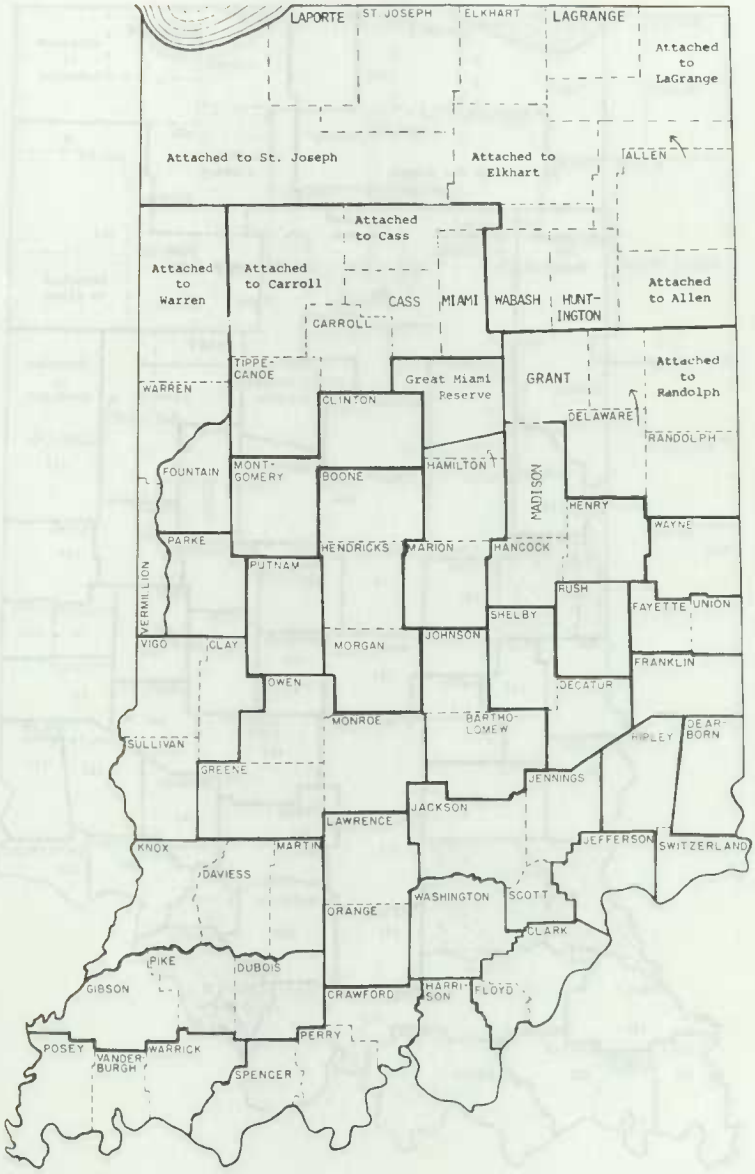
Map 11: Senate Districts 1831



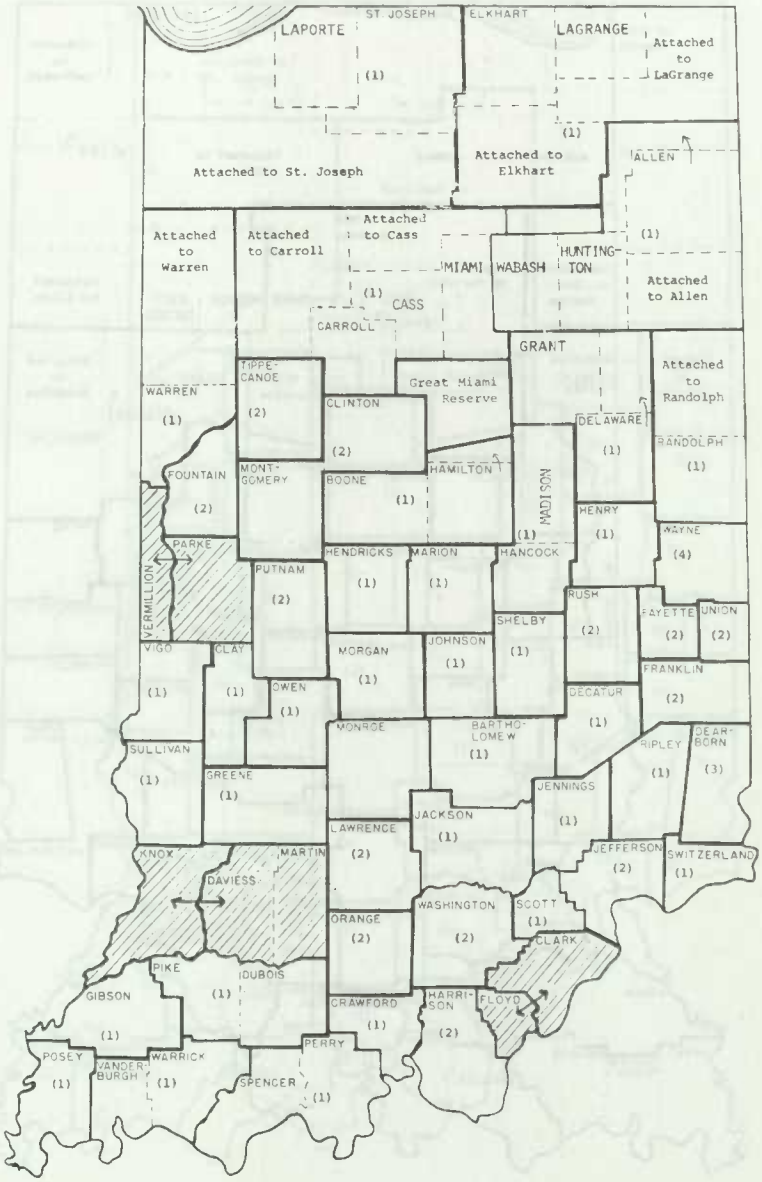
Map 12: House Districts 1831



Map 13: Senate Districts 1834

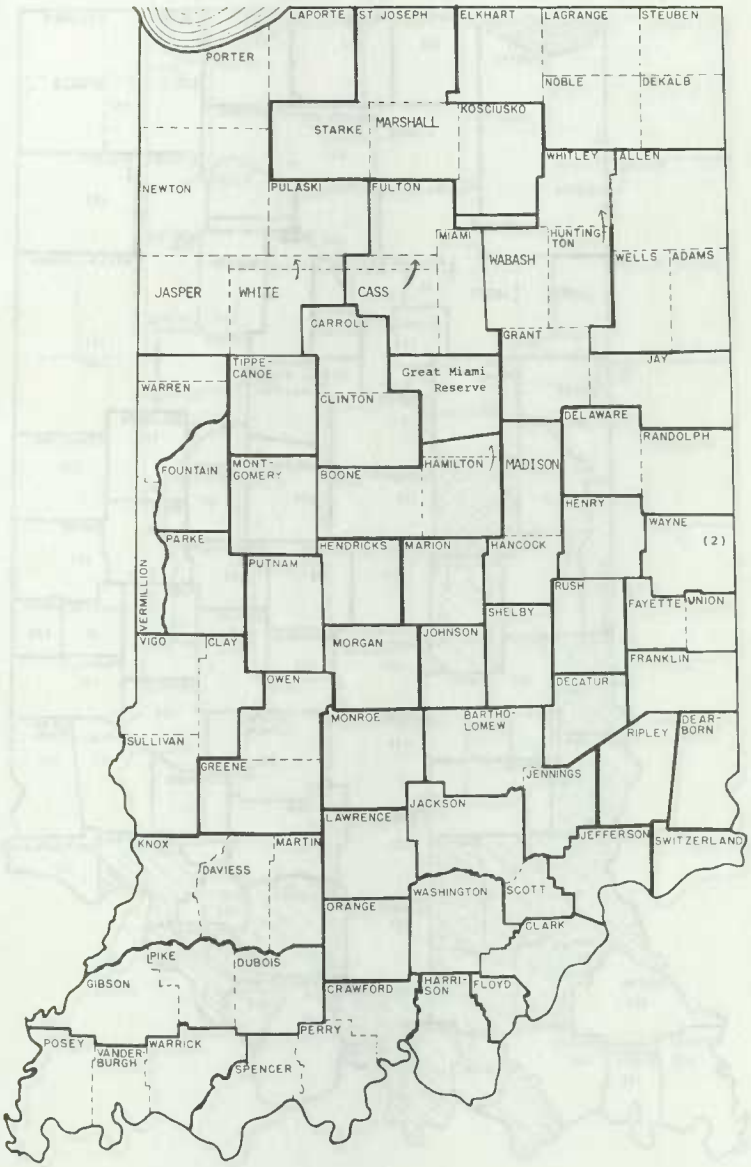


Map 14: House Districts 1834



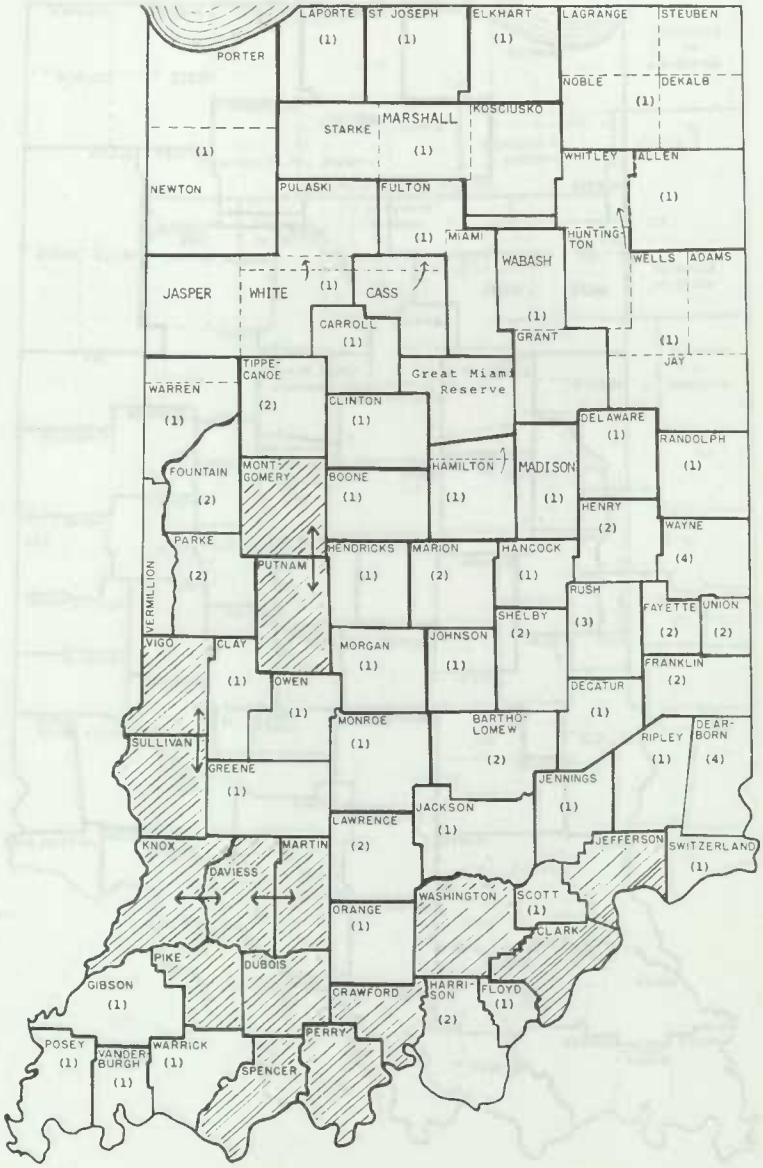
Note: The Interim Apportionment Act of February 1, 1834, included Grant County in a senatorial district but failed to assign the county to a representative district. In the 1834-35 session, however, David Kilgore served in the House from a district that included both Delaware and Grant counties. The two counties are shown as part of the same district on this map.

Map 15: Senate Districts 1836



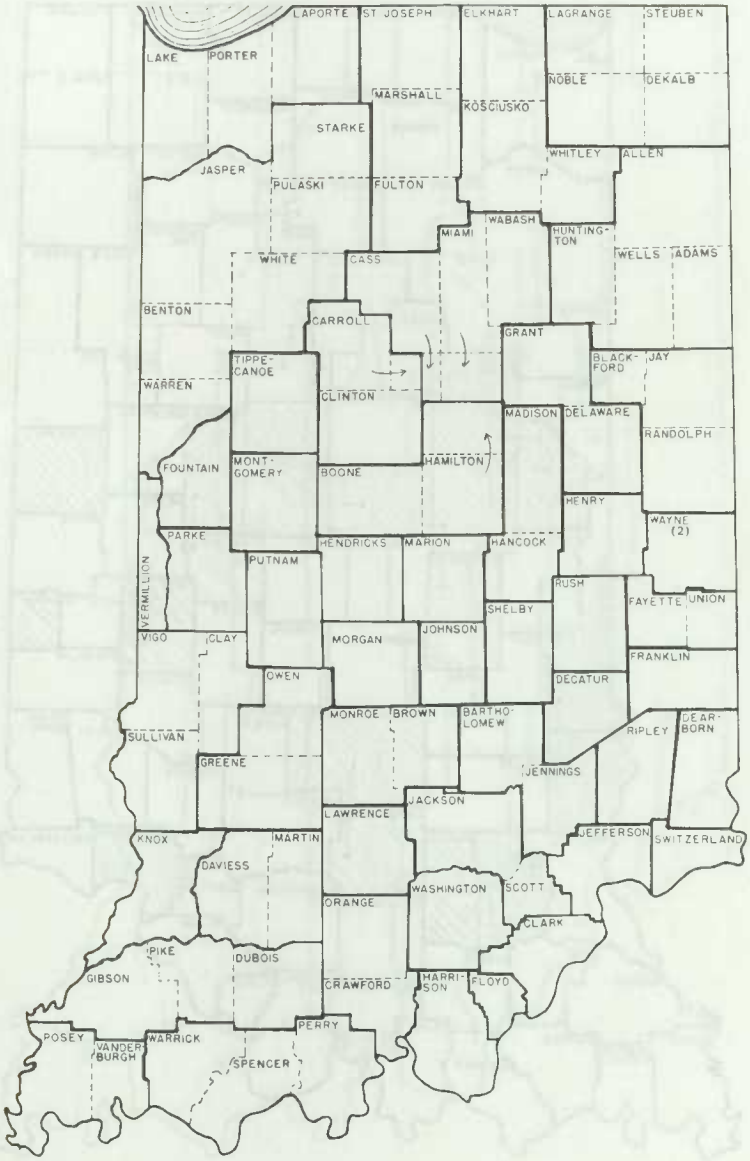
Note: The small strip of land south of Kosciusko and north of Miami and Wabash counties "had apparently been overlooked in the general apportionment of lands." Pence and Armstrong, *Indiana Boundaries*, 65. Whitley County was not assigned by the Apportionment Act of January 13, 1836. In a statute approved February 6, 1836, Whitley was attached to Huntington County for judicial purposes (*Laws*, 1836, p. 84), and it is so shown on this apportionment map.

Map 16: House Districts 1836



Note: The small strip of land south of Kosciusko and north of Miami and Wabash counties "had apparently been overlooked in the general apportionment of lands." Pence and Armstrong, *Indiana Boundaries*, 65. Whitley County was not assigned by the Apportionment Act of January 13, 1836. In a statute approved February 6, 1836, Whitley was attached to Huntington County for judicial purposes (*Laws*, 1836, p. 84), and it is so shown on this apportionment map.

Map 17: Senate Districts 1841



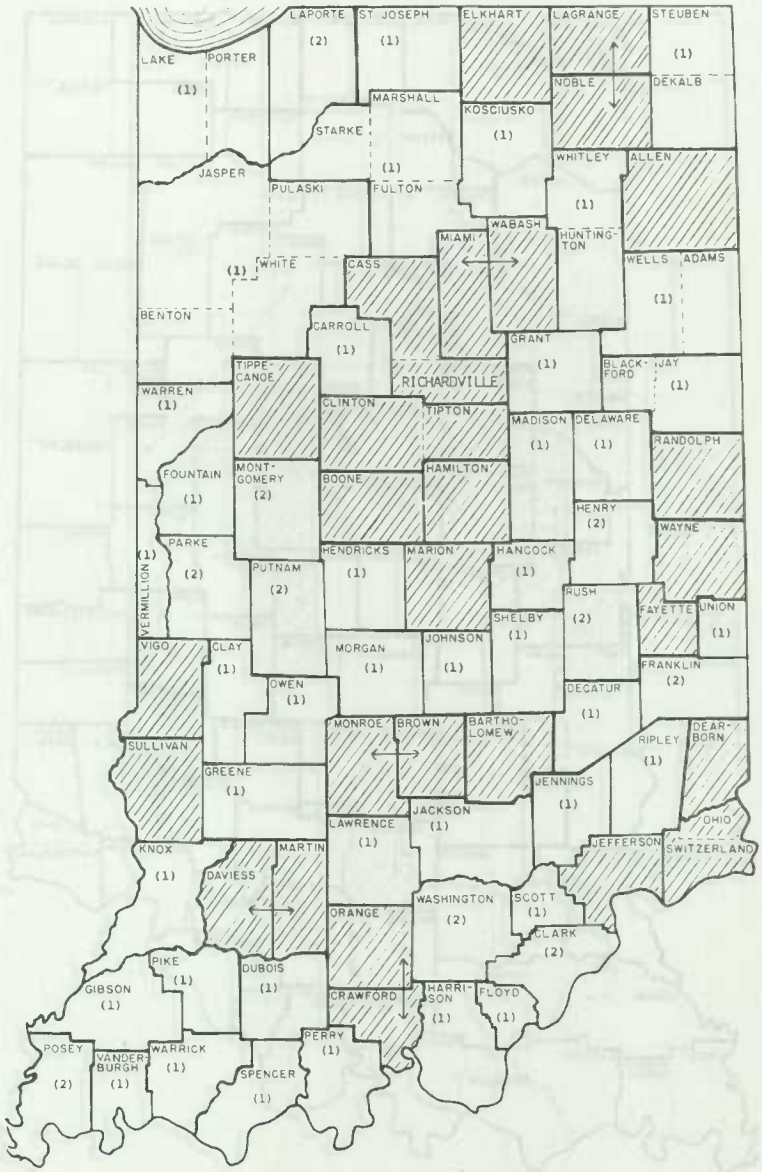
Note: The small strip of land between Brown and Jackson counties was detached from Bartholomew County in 1838 and not attached to Jackson County until 1843.

Map 18: House Districts 1841

Note: The small strip of land between Brown and Jackson counties was detached from Bartholomew County in 1838 and not attached to Jackson County until 1843. The Interim Apportionment Act of January 2, 1843, in effect for the 1844-45 session, assigned Brown and Monroe counties one representative each in lieu of two representatives jointly.

Map 19: Senate Districts 1846

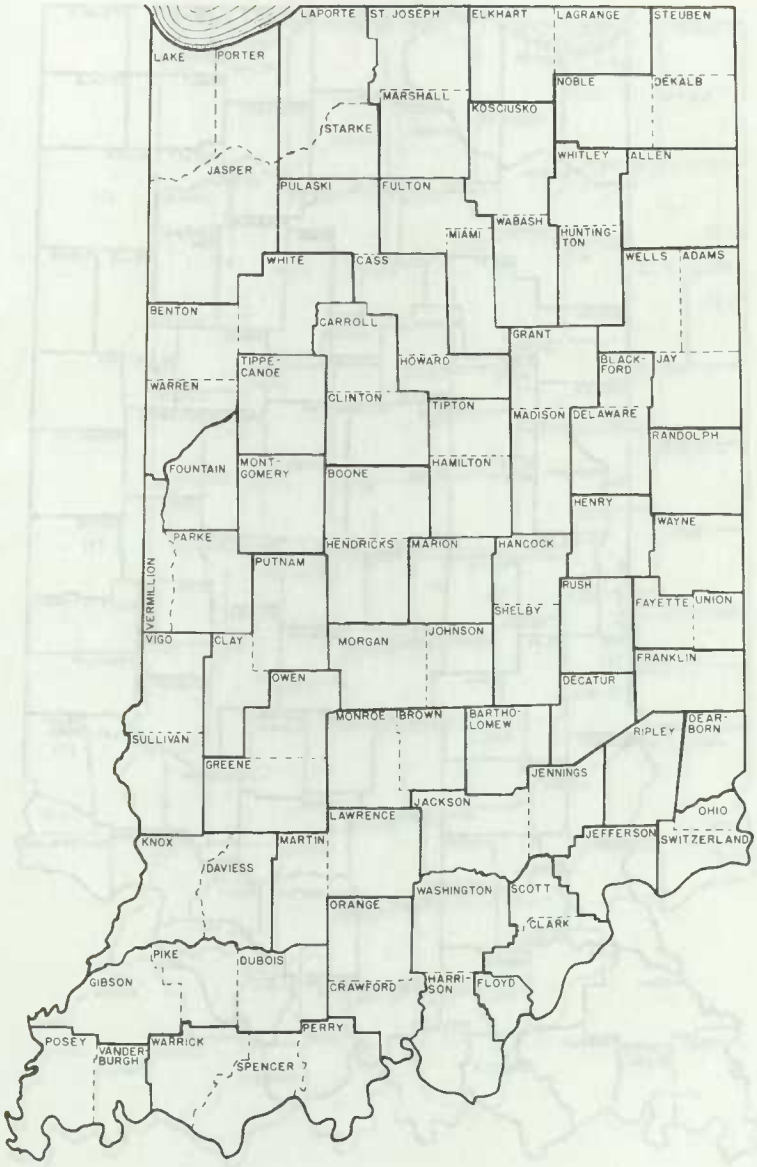
Map 20: House Districts 1846



Map 21: Senate Districts 1851

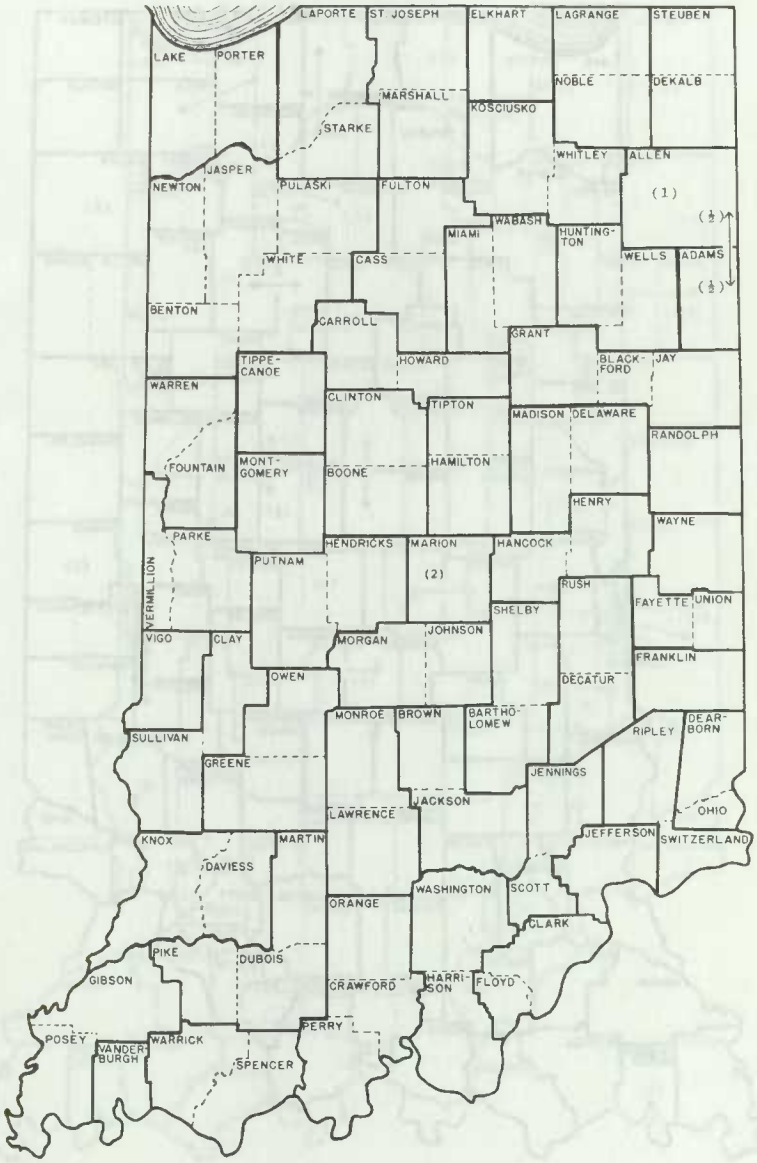
Map 22: House Districts 1851

Map 23: Senate Districts 1857



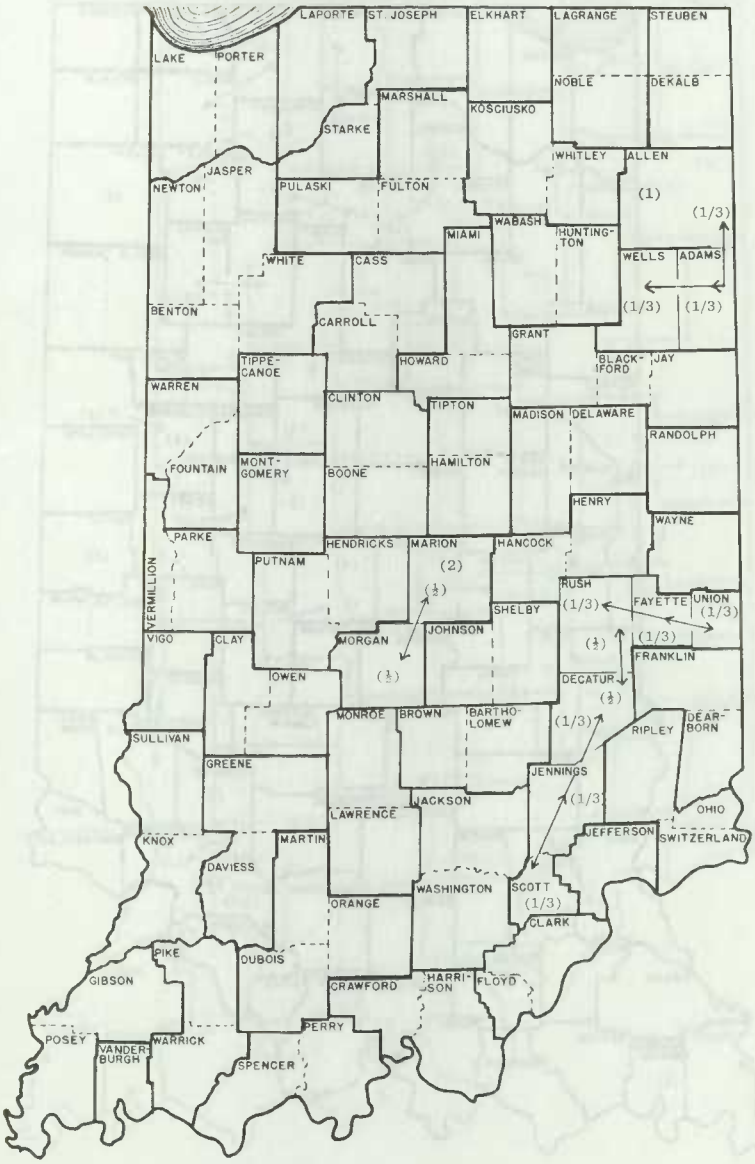
Map 24: House Districts 1857

Map 25: Senate Districts 1867



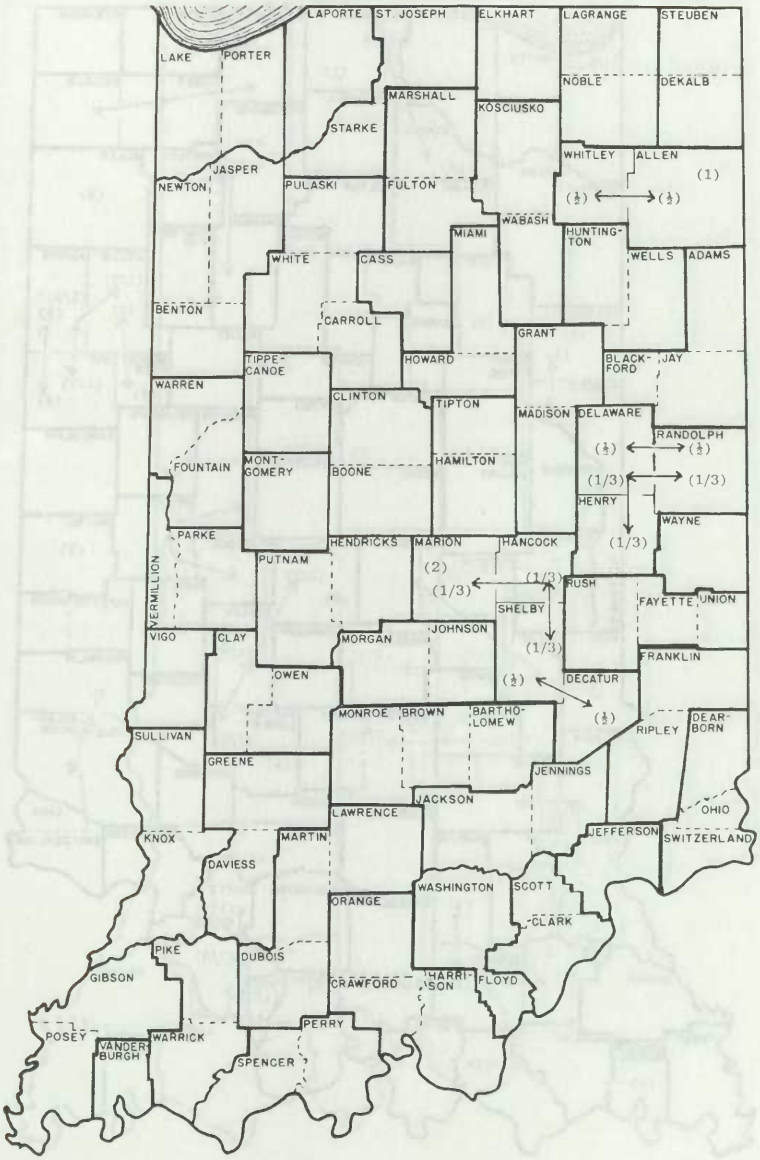
Map 26: House Districts 1867

Map 27: Senate Districts 1872



Map 28: House Districts 1872

Map 29: Senate Districts 1879



Map 30: House Districts 1879

Map 31: Senate Districts 1885

Map 32: House Districts 1885

Map 33: Senate Districts 1891

Map 34: House Districts 1891

Map 35: Senate Districts 1893

Map 36: House Districts 1893

Map 37: Senate Districts 1897

Map 38: House Districts 1897

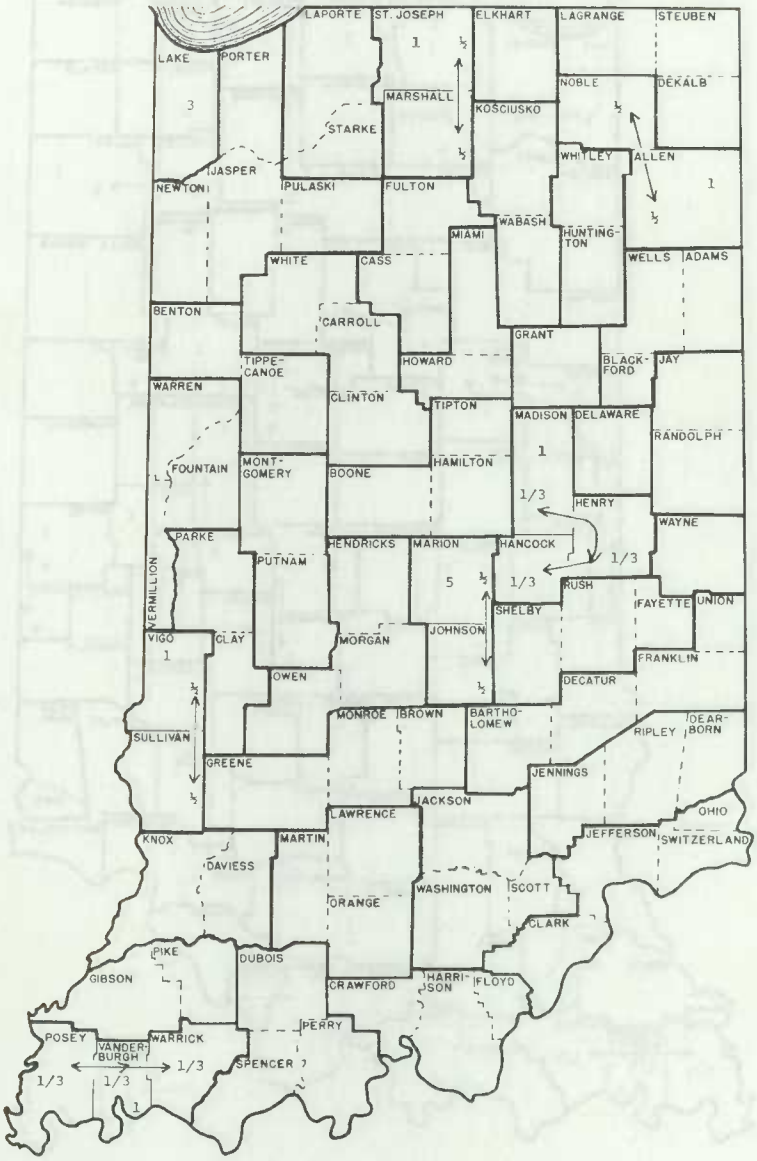
Map 39: Senate Districts 1905

Map 40: House Districts 1905

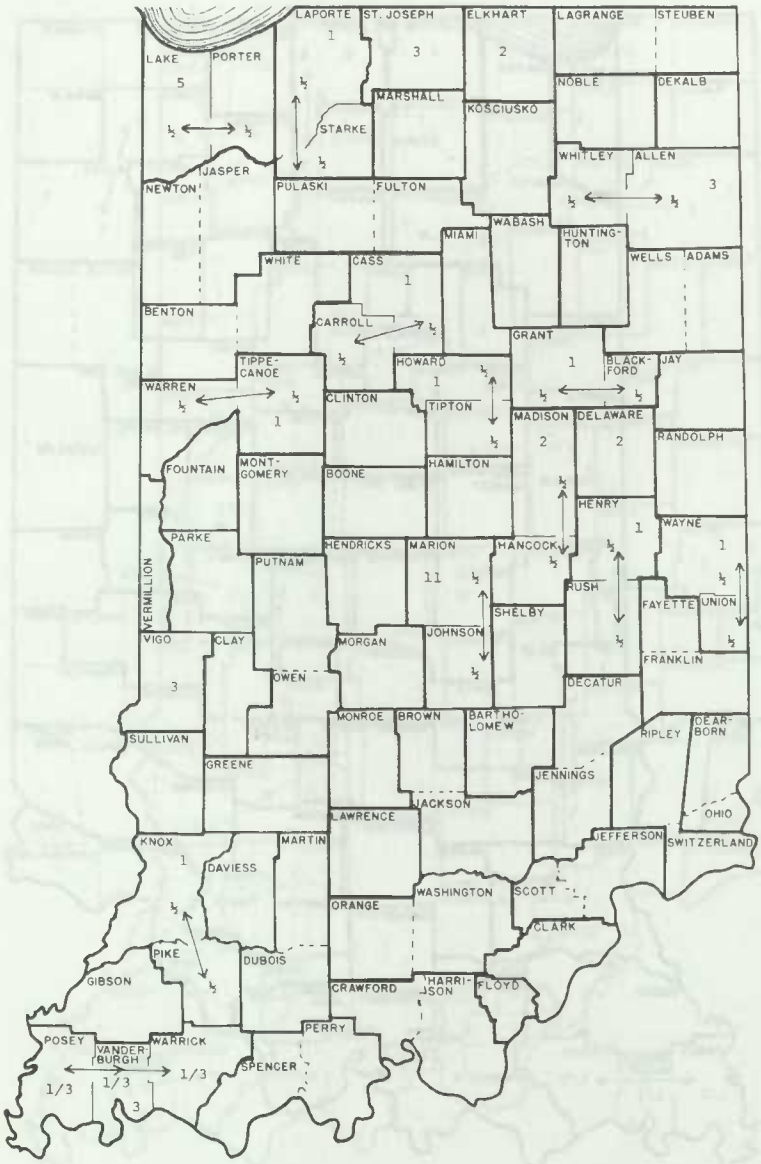
Map 41: Senate Districts 1915

Map 42: House Districts 1915

Map 43: Senate Districts 1921



Map 44: House Districts 1921



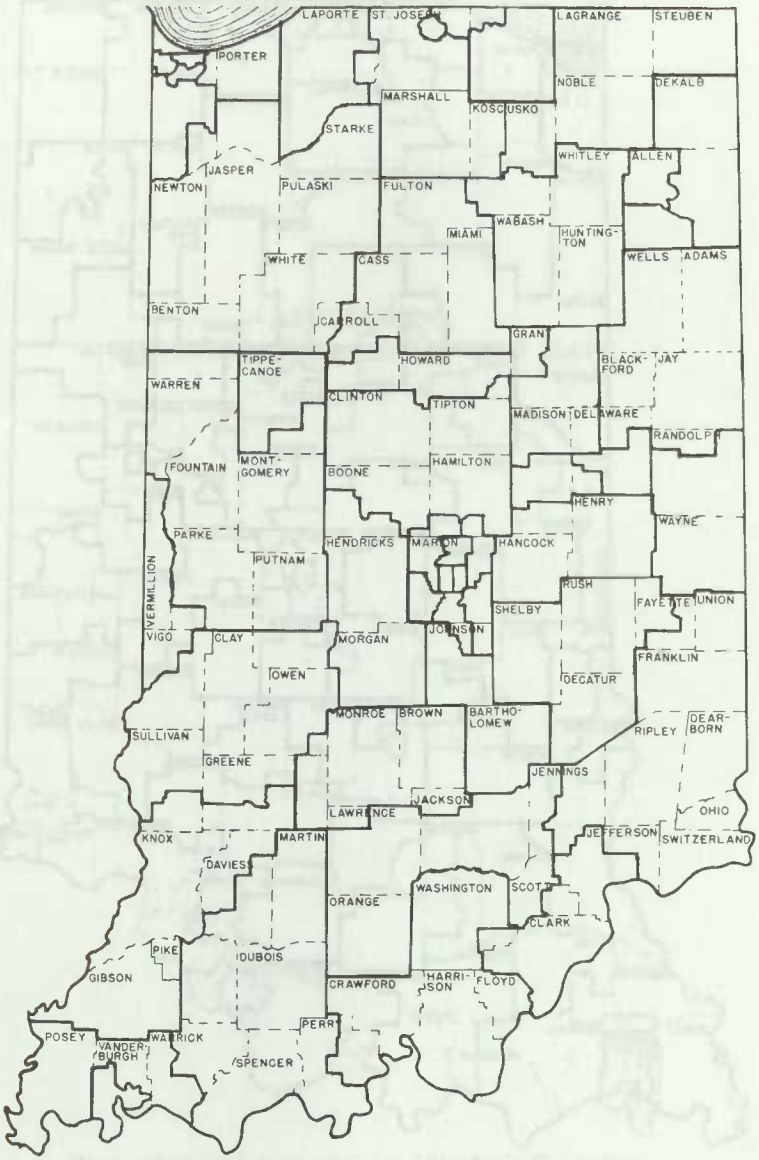
Map 45: Senate Districts 1963

Map 46: House Districts 1963

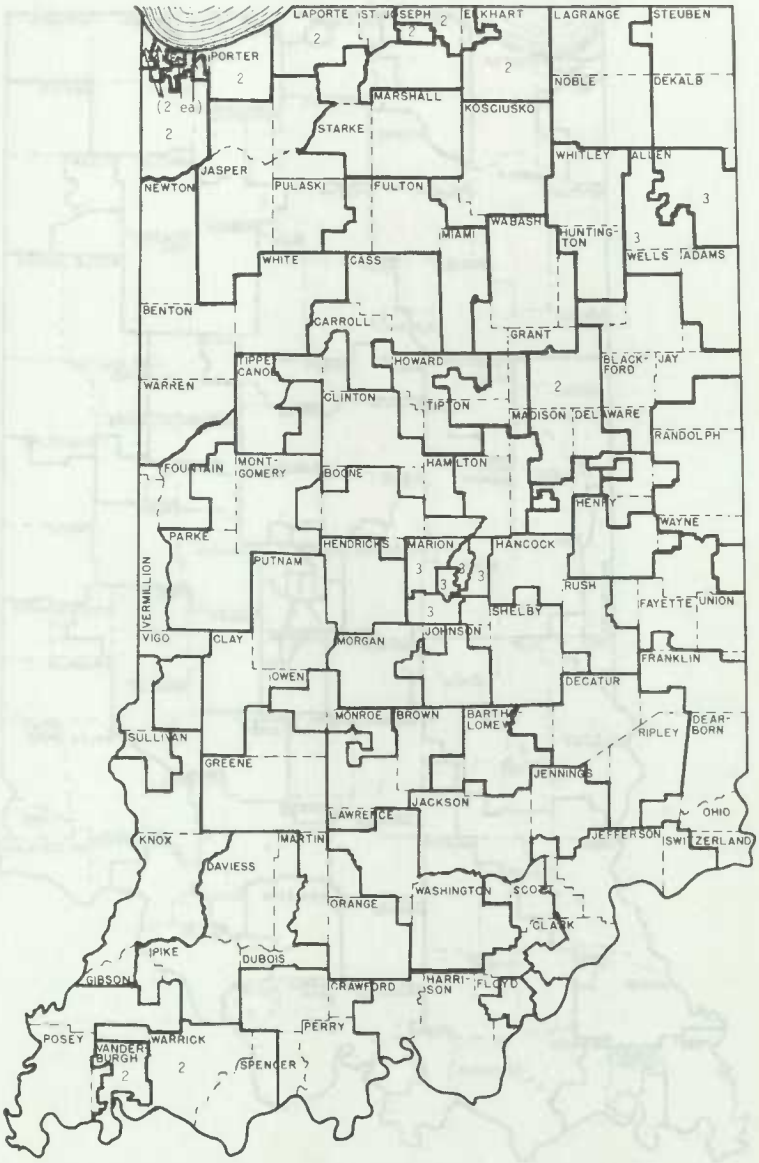
Map 47: Senate Districts 1965

Map 48: House Districts 1965

Map 49: Senate Districts 1972



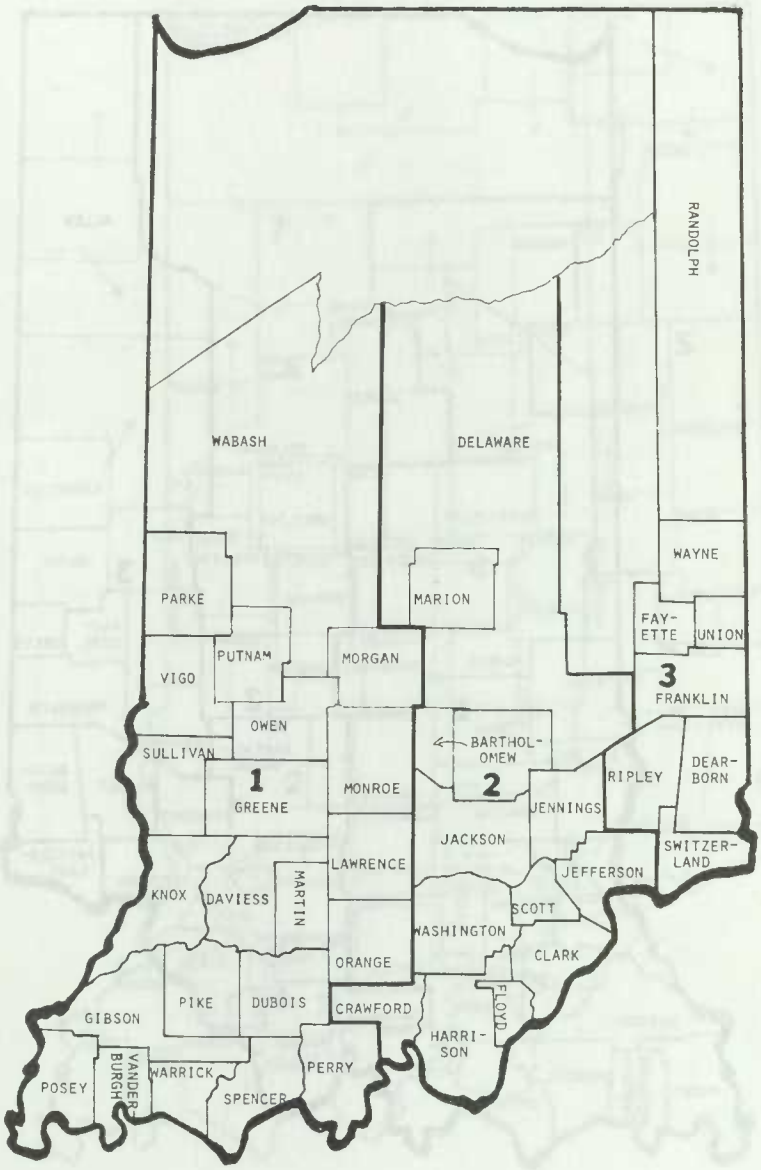
Map 50: House Districts 1972



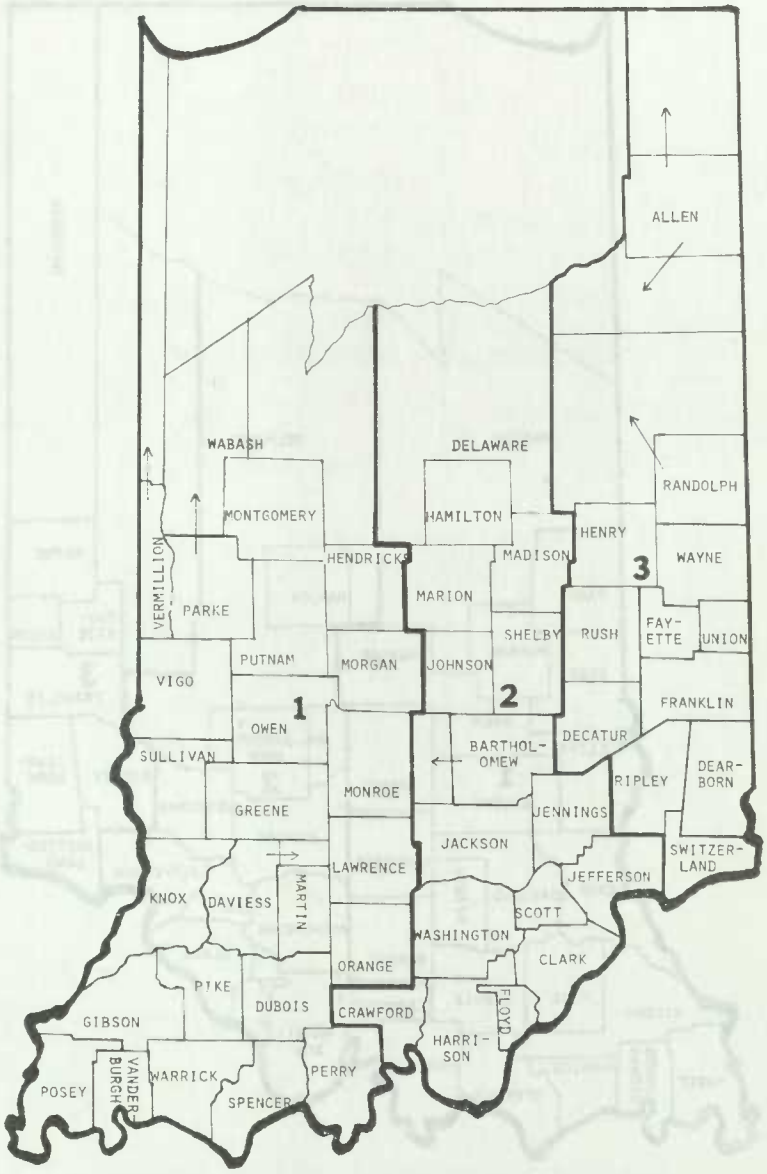
APPENDIX C:
CONGRESSIONAL DISTRICTING MAPS

Researched and prepared by Elizabeth Shanahan

Map 51: Congressional Districts 1822

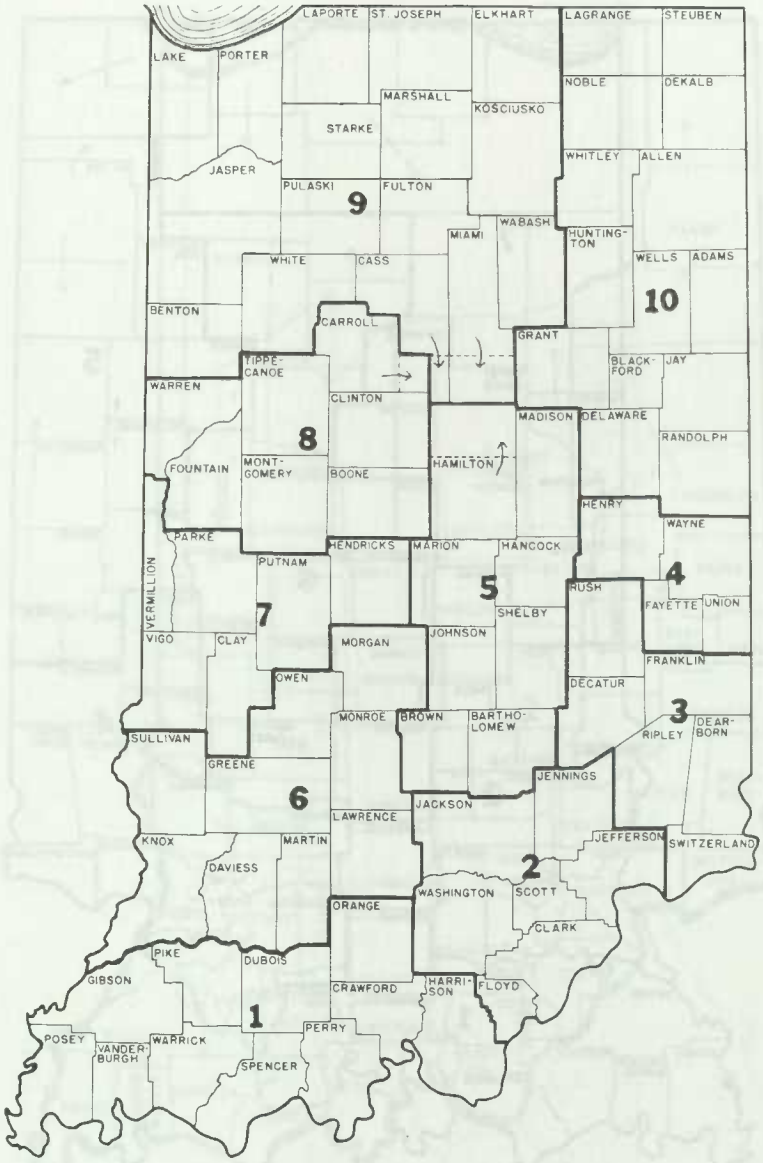


Map 52: Congressional Districts 1824



Map 53: Congressional Districts 1833

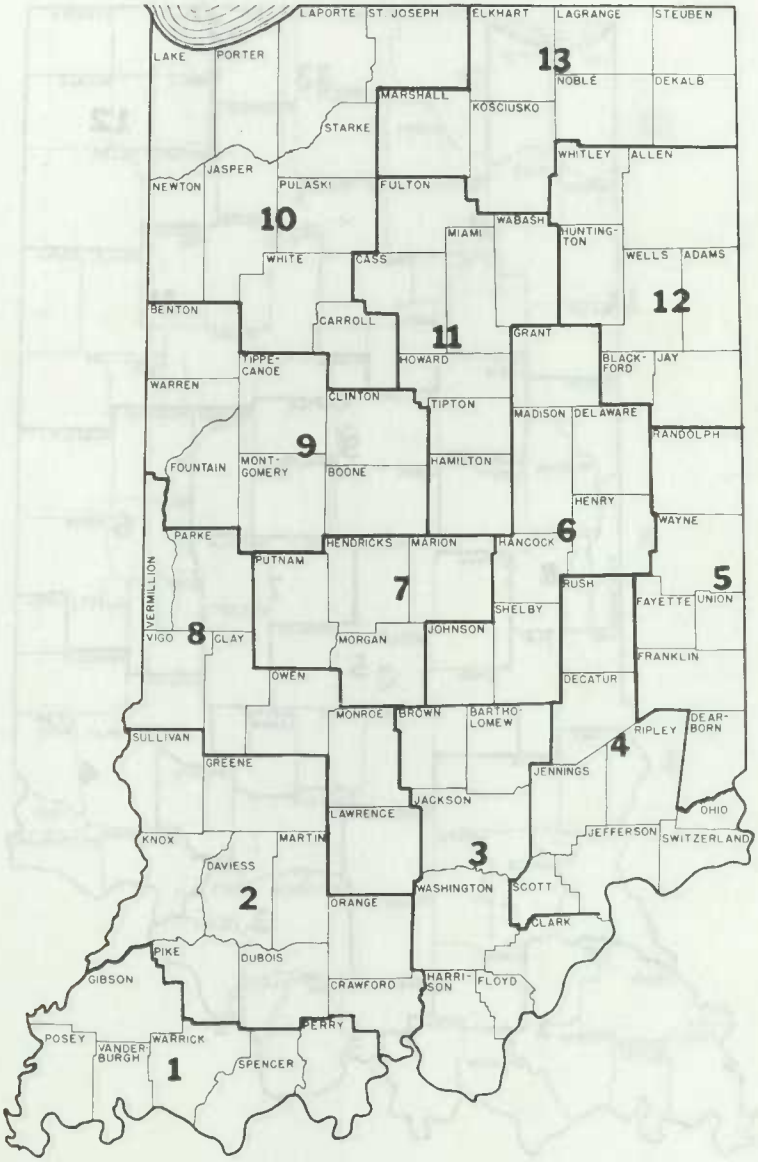
Map 54: Congressional Districts 1843



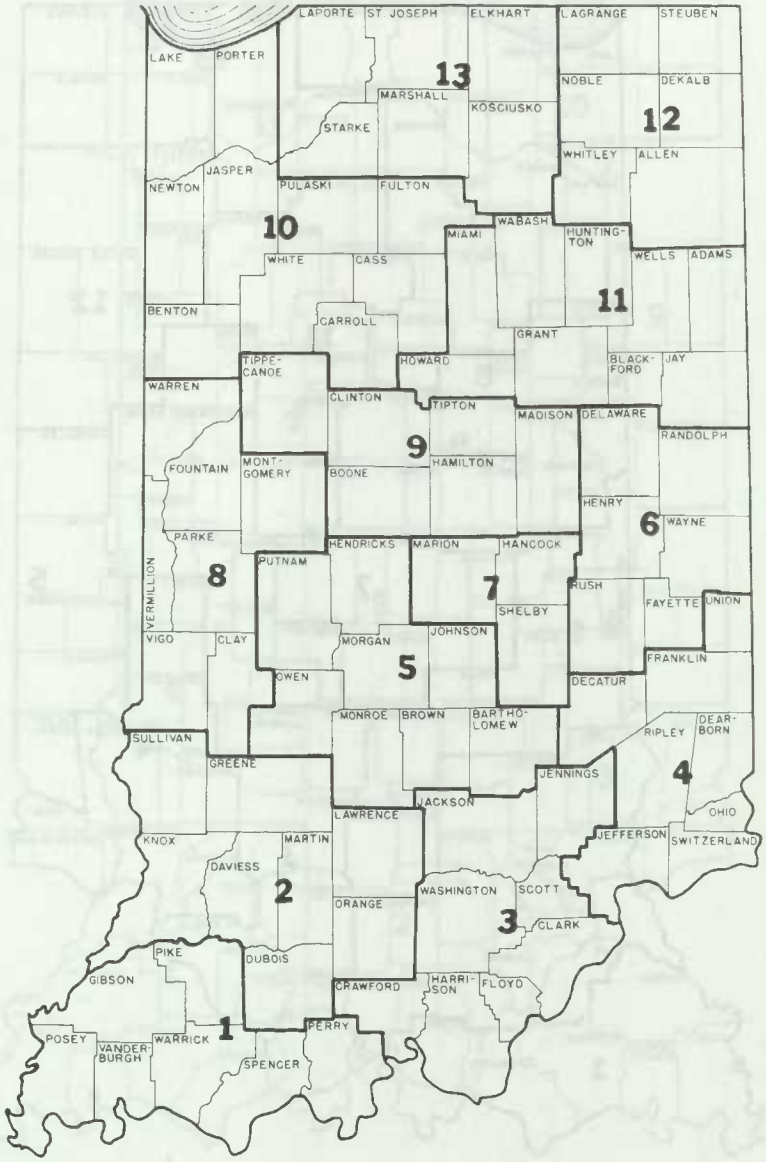
Map 55: Congressional Districts 1852

Map 56: Congressional Districts 1867

Map 57: Congressional Districts 1872

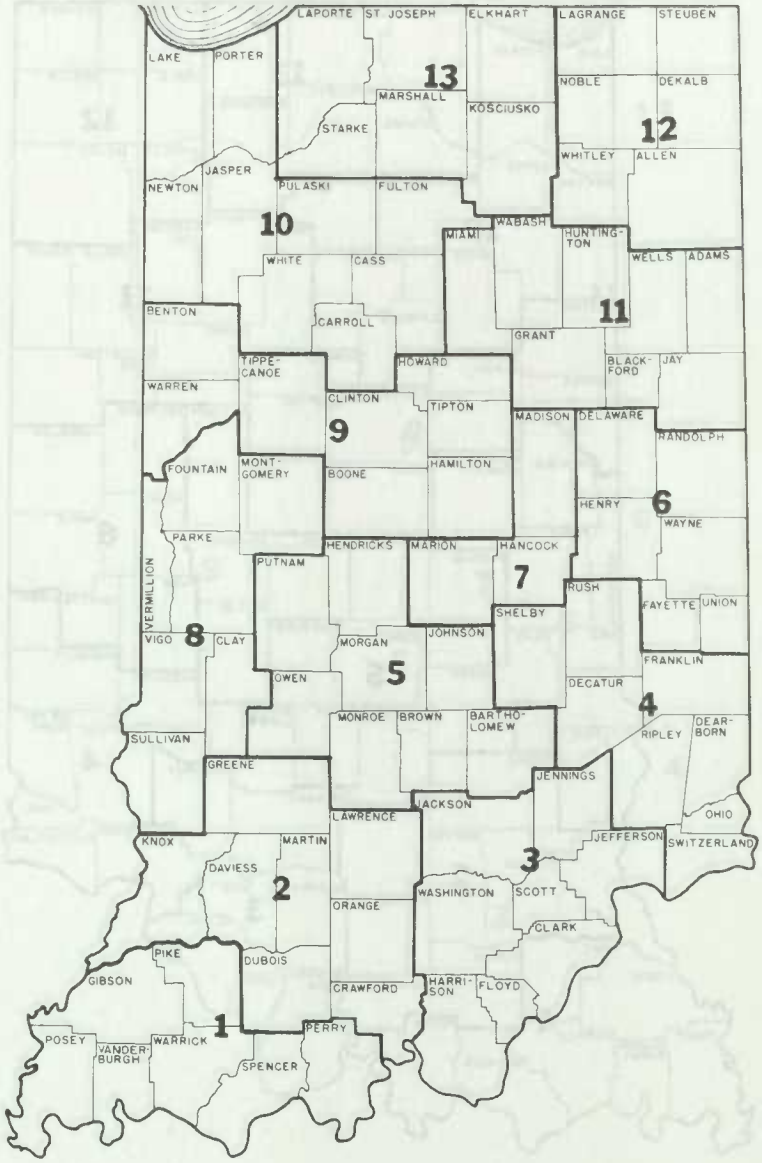


Map 58: Congressional Districts 1879



Map 59: Congressional Districts 1885

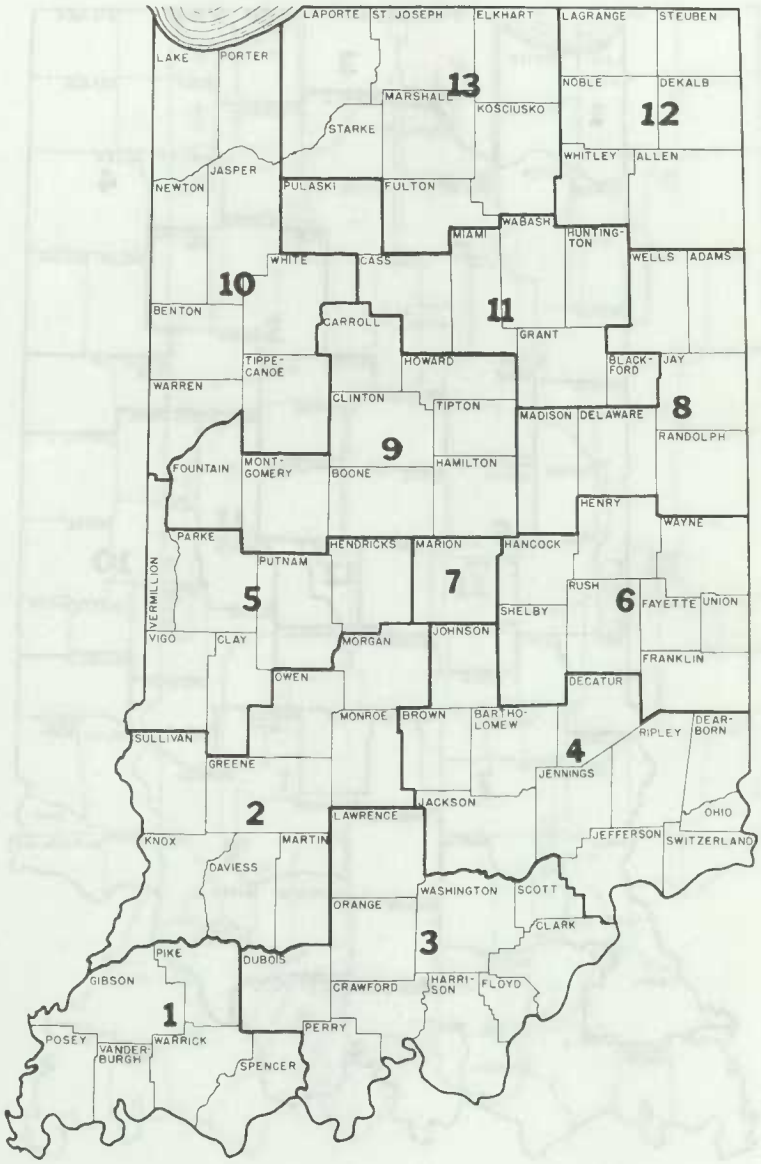
Map 60: Congressional Districts 1891



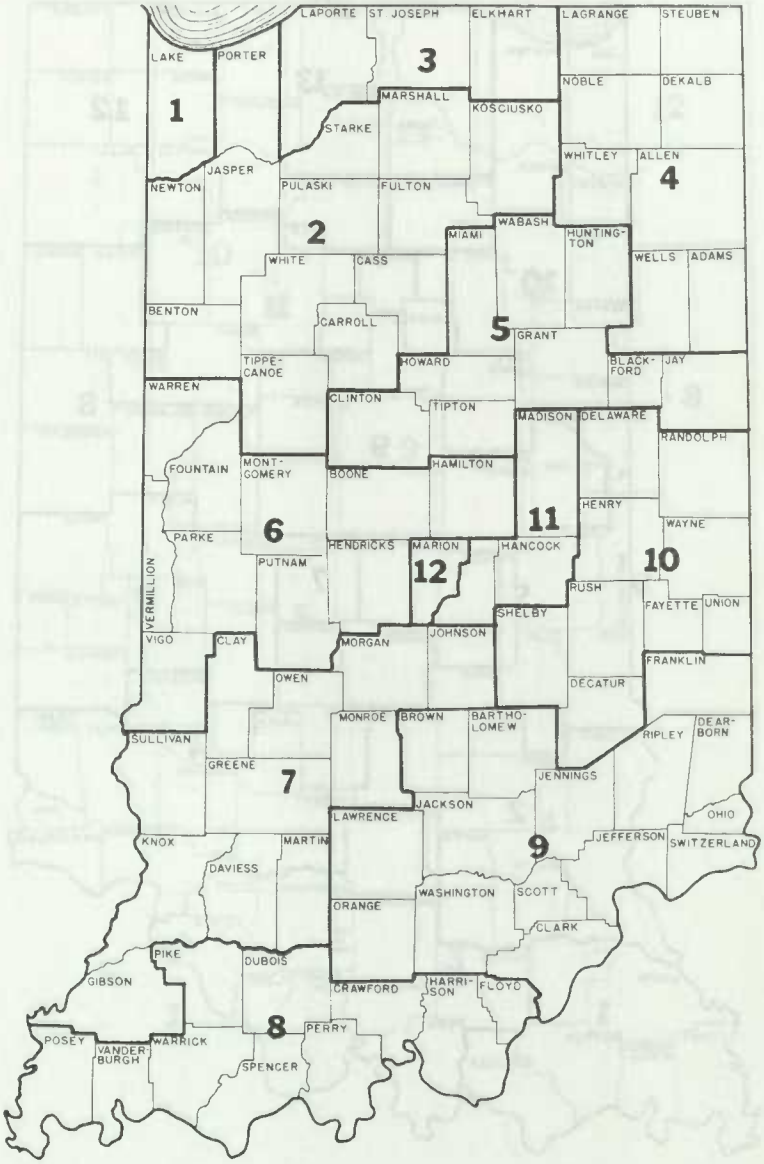
Map 61: Congressional Districts 1895

Map 62: Congressional Districts 1901

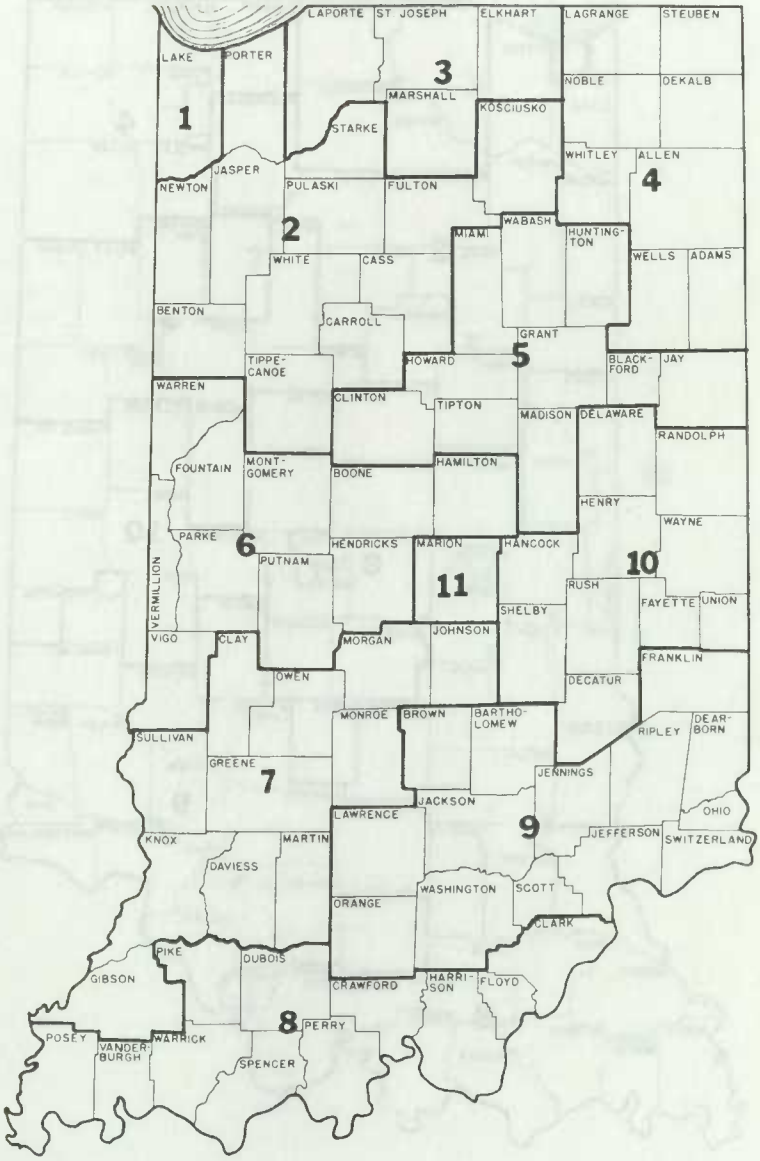
Map 63: Congressional Districts 1911



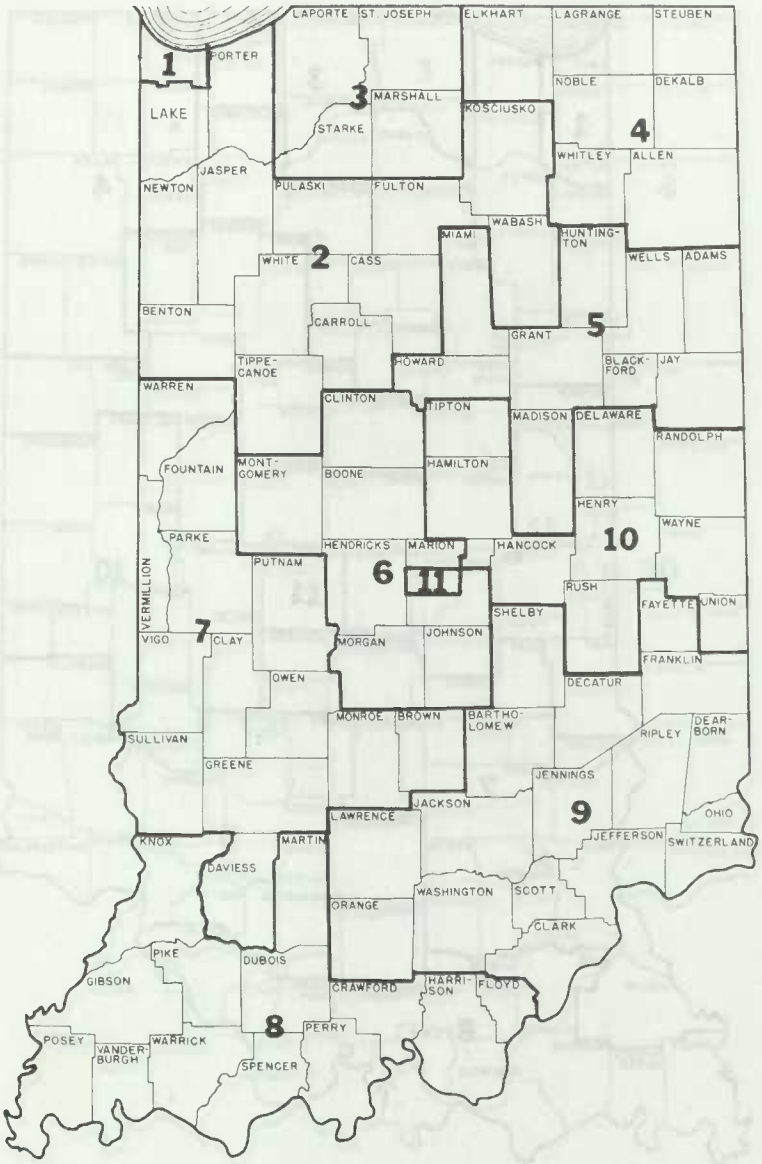
Map 64: Congressional Districts 1931



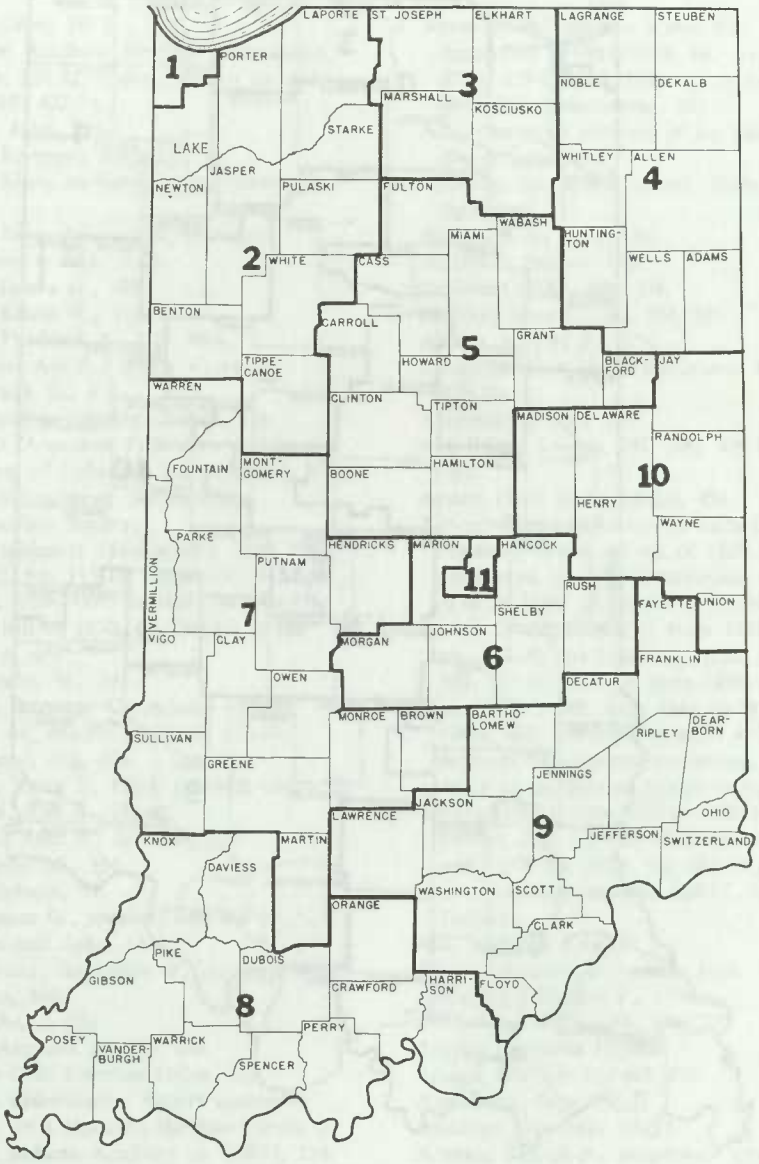
Map 65: Congressional Districts 1941



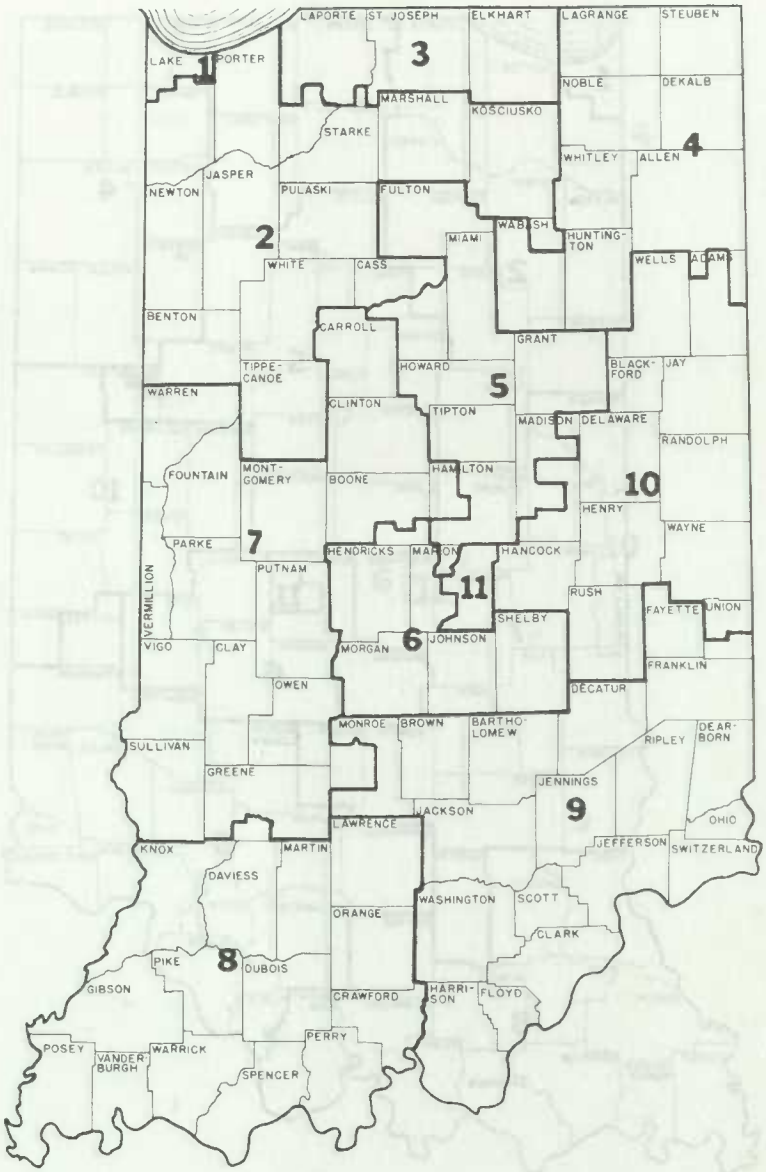
Map 66: Congressional Districts 1965



Map 67: Congressional Districts 1968



Map 68: Congressional Districts 1972



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